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98th Congress
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SENATE

REPORT
No. 98-249

VETERANS' COMPENSATION AND PROGRAM IMPROVEMENTS AMENDMENTS OF 1983

REPORT

OF THE

COMMITTEE ON VETERANS' AFFAIRS
UNITED STATES SENATE

together with

ADDITIONAL VIEWS

TO ACCOMPANY

S. 1388

SEPTEMBER 28 (legislative day, SEPTEMBER 26), 1983.—Ordered to be printed

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VETERANS' COMPENSATION AND PROGRAM IMPROVEMENTS AMENDMENTS OF 1983

SEPTEMBER 28 (legislative day, SEPTEMBER 26), 1983.—Ordered to be printed

Mr. SIMPSON, from the Committee on Veterans' Affairs, submitted the following

REPORT

together with

ADDITIONAL VIEWS

[To accompany S. 1388]

The Committee on Veterans' Affairs to which was referred the bill (S. 1388) to amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans and to increase the rates of dependency and indemnity compensation for surviving spouses and children of veterans, having considered the same, reports favorably thereon with an amendment in the nature of a committee substitute, and an amendment to the title, and recommends that the bill, as amended, do pass.

COMMITTEE AMENDMENTS

The amendments are as follows:

Strike out all after the enacting clause as follows:

[SECTION 1. (a) This Act may be cited as the "Veterans' Disability Compensation and Survivors' Benefits Amendments of 1983".

[(b) Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

[TITLE I—COMPENSATION RATE INCREASES

[RATES OF DISABILITY COMPENSATION

[SEC. 101. (a) Section 314 is amended—

[(1) by striking out "$62" in subsection (a) and inserting in lieu thereof "$64";

[(2) by striking out "$114" in subsection (b) and inserting in lieu thereof "$117";

[(3) by striking out "$173" in subsection (c) and inserting in lieu thereof "$179";

[(4) by striking out "$249" in subsection (d) and inserting in lieu thereof "$257";

[(5) by striking out "$352" in subsection (e) and inserting in lieu thereof "$364";

[(6) by striking out "$443" in subsection (f) and inserting in lieu thereof "$458";

[(7) by striking out "$559" in subsection (g) and inserting in lieu thereof "$578";

[(8) by striking out "$648" in subsection (h) and inserting in lieu thereof "$670";

[(9) by striking out "$729" in subsection (i) and inserting in lieu thereof "$754";

[(10) by striking out "$1,213" in subsection (j) and inserting in lieu thereof "$1,255";

[(11) by striking out "$1,506" and "$2,111" in subsection (k) and inserting in lieu thereof "$1,558" and "$2,184", respectively;

[(12) by striking out "$1,506" in subsection (l) and inserting in lieu thereof "$1,558";

[(13) by striking out "$1,661" in subsection (m) and inserting in lieu thereof "$1,719";

[(14) by striking out "$1,888" in subsection (n) and inserting in lieu thereof "$1,954";

[(15) by striking out "$2,111" each place it appears in subsections (o) and (p) and inserting in lieu thereof "$2,184";

[(16) by striking out "$906" and "$1,350" in subsection (r) and inserting in lieu thereof "$937" and "$1,397", respectively;

[(17) by striking out "$1,357" in subsection (s) and inserting in lieu thereof "$1,404";

[(18) by striking out "$262" in subsection (t) and inserting in lieu thereof "$271".

[(b) The Administrator of Veterans' Affairs may adjust administratively, consistent with the increases authorized by this section, the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85-857 who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

[RATES OF ADDITIONAL COMPENSATION FOR DEPENDENTS

[SEC. 102. Section 315(1) is amended—

[(1) by striking out "$74" in clause (A) and inserting in lieu thereof "$76";

[(2) by striking out "$124" and "$40" in clause (B) and inserting in lieu thereof "$128" and "$41", respectively;

[(3) by striking out "$50" and "$40" in clause (C) and inserting in lieu thereof "$51 and "$41", respectively;

[(4) by striking out "$60" in clause (D) and inserting in lieu thereof "$62";

[(5) by striking out "$134" in clause (E) and inserting in lieu thereof "$138"; and

[(6) by striking out "$112" in clause (F) and inserting in lieu thereof "$115";

[CLOTHING ALLOWANCE FOR CERTAIN DISABLED VETERANS

[SEC. 103. Section 362 is amended by striking out "$327" and inserting in lieu thereof "$338".

[TITLE II—DEPENDENCY AND INDEMNITY COMPENSATION RATE INCREASES

[RATES OF DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING SPOUSES

[SEC. 201. (a) Subsection (a) of section 411 is amended to read as follows:

[“(a) Dependency and indemnity compensation shall be paid to a surviving spouse, based on the pay grade of the person upon whose death entitlement is predicated, at monthly rates set forth in the following table:

“Pay grade	Monthly rate	“Pay grade	Monthly rate
E-1	$460	W-4	$661
E-2	$475	O-1	$582
E-3	$486	O-2	$602
E-4	$517	O-3	$643
E-5	$531	O-4	$681
E-6	$544	O-5	$751
E-7	$571	O-6	$845
E-8	$602	O-7	$914
E-9	[1] $629	O-8	$1,002
W-1	$582	O-9	$1,077
W-2	$606	O-10	[2] $1,178
W-3	$624		

“[1] If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $677.

“[2] If the veteran served as Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, or Commandant of the Marine Corps, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $1,264.”

[(b) Subsection (b) of such section is amended by striking out “$51” and inserting in lieu thereof “$52”.

[(c) Subsection (c) of such section is amended by striking out “$134” and inserting in lieu thereof “$138”.

[(d) Subsection (d) of such section is amended by striking out “$66” and inserting in lieu thereof “$68”.

[RATES OF DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN

[SEC. 202. Section 413 is amended—

[(1) by striking out “$225” in clause (1) and inserting in lieu thereof “$232”;

[(2) by striking out “$323” in clause (2) and inserting in lieu thereof “$334”;

[(3) by striking out “$417” in clause (3) and inserting in lieu thereof “$431”; and

[(4) by striking out “$417” and “$84” in clause (4) and inserting in lieu thereof “$431” and “$86”, respectively.

[RATES OF SUPPLEMENTAL DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN

[SEC. 203. Section 414 is amended—

[(1) by striking out “$134” in subsection (a) and inserting in lieu thereof “$138”;

[(2) by striking out “$225” in subsection (b) and inserting in lieu thereof “$232”; and

[(3) by striking out “$114” in subsection (c) and inserting in lieu thereof “$117”.

[TITLE III—EFFECTIVE DATE

[SEC. 301. The amendments made by titles I and II of this Act shall take effect on April 1, 1984.]

and insert in lieu thereof the following:

That (a) this Act may be cited as the “Veterans' Compensation and Program Improvements Amendments of 1983”.

(b) Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—DISABILITY COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION

PART A—RATE INCREASES

DISABILITY COMPENSATION

SEC. 101. (a) Section 314 is amended—

(1) by striking out "$62" in subsection (a) and inserting in lieu thereof "$64";

(2) by striking out "$114" in subsection (b) and inserting in lieu thereof "$118";

(3) by striking out "$173" in subsection (c) and inserting in lieu thereof "$179";

(4) by striking out "$249" in subsection (d) and inserting in lieu thereof "$258";

(5) by striking out "$352" in subsection (e) and inserting in lieu thereof "$364";

(6) by striking out "$443" in subsection (f) and inserting in lieu thereof "$459";

(7) by striking out "$559" in subsection (g) and inserting in lieu thereof "$579";

(8) by striking out "$648" in subsection (h) and inserting in lieu thereof "$671";

(9) by striking out "$729" in subsection (i) and inserting in lieu thereof "$754";

(10) by striking out "$1,213" in subsection (j) and inserting in lieu thereof "$1,255";

(11) by striking out "$1.506" and "$2,111" in subsection (k) and inserting in lieu thereof "$1,559" and "$2,185", respectively;

(12) by striking out "$1,506" in subsection (l) and inserting in lieu thereof "$1,559";

(13) by striking out "$1,661" in subsection (m) and inserting in lieu thereof "$1,719";

(14) by striking out "$1,888" in subsection (n) and inserting in lieu thereof "$1,954";

(15) by striking out "$2,111" each place it appears in subsections (o) and (p) and inserting in lieu thereof "$2,185";

(16) by striking out "$906" and "$1,350" in subsection (r) and inserting in lieu thereof "$938" and "$1,397", respectively;

(17) by striking out "$1,357" in subsection (s) and inserting in lieu thereof "$1,404"; and

(18) by striking out "$262" in subsection (t) and inserting in lieu thereof "$271".

(b) The Administrator of Veterans' Affairs may adjust administratively, consistent with the increases authorized by this section, the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85-857 who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

ADDITIONAL COMPENSATION FOR DEPENDENTS

SEC. 102. Section 315(1) is amended—

(1) by striking out "$74" in clause (A) and inserting in lieu thereof "$77";

(2) by striking out "$124" and "$40" in clause (B) and inserting in lieu thereof "$128" and "$41", respectively;

(3) by striking out "$50" and "$40" in clause (C) and inserting in lieu thereof "$52" and "$41", respectively;

(4) by striking out "$60" in clause (D) and inserting in lieu thereof "$62";

(5) by striking out "$134" in clause (E) and inserting in lieu thereof "$139"; and

(6) by striking out "$112" in clause (F) and inserting in lieu thereof "$116".

CLOTHING ALLOWANCE FOR CERTAIN DISABLED VETERANS

SEC. 103. Section 362 is amended by striking out "$327" and inserting in lieu thereof "$338".

DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING SPOUSES

SEC. 104. (a) Subsection (a) of section 411 is amended to read as follows:

"(a) Dependency and indemnity compensation shall be paid to a surviving spouse, based on the pay grade of the person upon whose death entitlement is predicated, at monthly rates set forth in the following table:

"Pay grade	Monthly rate	"Pay grade	Monthly rate
E-1	$461	W-4	$661
E-2	$475	O-1	$583
E-3	$486	O-2	$602
E-4	$518	O-3	$644
E-5	$532	O-4	$681
E-6	$544	O-5	$751
E-7	$571	O-6	$846
E-8	$602	O-7	$915
E-9	[1] $629	O-8	$1,003
W-1	$583	O-9	$1,077
W-2	$607	O-10	[2] $1,179
W-3	$624		

"[1] If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major the Marine Corps or master chief petty officer of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $677.

"[2] If the veteran served as Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force or Commandant of the Marine Corps, at the applicable time designated by section 402 of this title, the surviving spouse's rate shali be $1,296."

(b) Subsection (b) of such section is amended by striking out "$51" and inserting in lieu thereof "$53".

(c) Subsection (c) of such section is amended by striking out "$134" and in inserting in lieu thereof "$139".

(d) Subsection (d) of such section is amended by striking out "$66" and in inserting in lieu thereof "$68".

(e) For the purposes of section 156(e)(1)(A) of Public Law 97-377, the overall average of the perentages by which each of the dependency and indemnity compensation rates under section 411 of title 38, United States Code, is increased by subsections (a) through (d) shall be considered to be 3.5 percent.

DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN

SEC. 105. Section 413 is amended—

(1) by striking out "$225" in clause (1) and inserting in lieu thereof "$233";

(2) by striking out "$323" in clause (2) and inserting in lieu thereof "$334";

(3) by striking out "$417" in clause (3) and inserting in lieu thereof "$432"; and

(4) by striking out "$417" and "$84" in clause (4) and inserting in lieu thereof "$432" and "$87", respectively.

SUPPLEMENTAL DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN

SEC. 106. Section 414 is amended—

(1) by striking out "$134" in subsection (a) and inserting in lieu thereof "$143";

(2) by striking out "$225" in subsection (b) and inserting lieu thereof "$233"; and

(3) by striking out "$114" in subsection (c) and inserting in lieu thereof "$118".

EFFECTIVE DATE OF FUTURE, INCREASES

SEC. 107. It is the sense of the Congress that any increases enacted to take effect in fiscal year 1985 and subsequent fiscal years in the rates of disability compensation and dependency and indemnity compensation payable under chapters 11 and 13, respectively, of title 38, United States Code, shall take effect on December 1 of the fiscal year involved and that the budgets for fiscal year 1985 and such subsequent years should include amounts to achieve such purpose.

PART B—COMPENSATION PROGRAM AMENDMENTS

PRESUMPTION CONCERNING DYSTHYMIC DISORDER

SEC. 111. Section 312(b) is amended—

(1) in clause (8), by striking out "or";

(2) in clause (9), by inserting after the comma "or"; and

(3) by inserting after clause (9) the following new clause:

"(10) dysthymic disorder (or depressive neurosis),".

RATES OF COMPENSATION FOR CERTAIN BLINDED VETERANS

SEC. 112. (a) Subsection (o) of section 314 is amended by striking out "60 per centum" and inserting in lieu thereof "40 percent".

(b) Subsection (p) of such section is amended—

(1) in clause (1), by striking out "40 per centum disabling," and inserting in lieu thereof "30 percent disabling, or service-connected total deafness in one ear,"; and

(2) in clause (2), by striking out "service-connected total deafness in one ear, or".

(c) The Administrator shall conduct a study of the appropriateness of the correlations between degrees of deafness (both in conjunction with other disabilities and otherwise) and the rates of disability compensation payable under section 314 of title 38, United States Code, and, not later than one year after the date of the enactment of this Act, the Administrator shall submit to the Committee on Veterans' Affairs of the House of Representatives and the Senate a report on the results of such study. Such report shall include such recommendations for legislative or administrative action as the Administrator may consider appropriate on the basis thereof.

INCREASES IN COMPENSATION ON ACCOUNT OF HOSPITALIZATION OR CONVALESCENCE

SEC. 113. (a) Section 3011(c) is amended—

(1) by inserting "(1)" after "(c)"; and

(2) by adding at the end the following new paragraph:

"(2) This section shall not apply to the payment of a temporary increase in compensation for treatment or observation during a course of hospitalization or for convalescence.".

(b) Clause (8) of section 3012(b) is amended to read as follows:

"(8) by reason of termination of a temporary increase in compensation for treatment or observation during a course of hospitalization or for convalescence, shall be the day on which the treatment, observation or convalescence terminated;".

(c) The Administrator shall prescribe guidelines, and shall take such other steps as the Administrator may consider appropriate, for the prevention of overpayments in the implementation of the provisions of this section.

CONTINUATION OF COMPENSATION PENDING REVIEW AND APPEAL

SEC. 114. (a) Section 3012 is amended—

(1) in subsection (b)(6)—

(A) by inserting a comma and "except as provided in subsection (c) of this section," after "shall be"; and

(B) by striking out "his" and inserting in lieu thereof "such payee's"; and

(2) by adding at the end the following new subsection:

"(c) The effective date of a reduction in or discontinuance of compensation by reason of a change in service-connected or employability status or change in physical condition in the case of a veteran who files a request pursuant to subsection (a) of section 3117 of this title shall be the earliest of—

"(1) the date on which such veteran withdraws the notice of disagreement filed in accordance with subsection (a)(3) of such section;

"(2) the date on which such veteran files a statement pursuant to subsection (b) of such section;

"(3) the date on which such case is closed pursuant to the sixth sentence of section 4005(d)(3) of this title; or

"(4) the date on which the Board of Veterans' Appeals makes a final determination upholding the determination referred to in subsection (a)(1) of section 3117 of this title to reduce or discontinue such veteran's compensation,

except that such effective date shall in no event be earlier than specified in subsection (b)(6) of the section.".

(b)(1) Chapter 53 is amended by adding at the end the following new section:

"§ 3117. Continuation of compensation pending review and appeal

"(a) Any veteran—

"(1) who receives from the Veterans' Administration a notice of a determination to reduce or discontinue such veteran's compensation by reason of a change in service-connected or employability status or change in physical condition;

"(2) who was receiving compensation for a disability that was continuously rated totally disabling for a period of ten or more years ending on the date such determination was made; and

"(3) who, not later than thirty days after the date on which the notice of such determination was sent to such veteran (at such veteran's last address of record), files a notice of disagreement with such determination pursuant to section 4005 of this title,

may file with such notice of disagreement a request that such compensation not be reduced or discontinued pending review by the activity which made such determination and pending the final determination of the Board of Veterans' Appeals on any formal appeal with respect to such determination that may thereafter be timely filed under section 4005(d)(3) or 4005A(b) of this title.

"(b) Any veteran who has filed a request under subsection (a) of this section may, at any time, file with the Veterans' Administration a written statement withdrawing such request.

"(c) A reduction or discontinuance of compensation with respect to which a request is filed pursuant to subsection (a) of this section shall not take effect before the date determined under section 3012(c) of this title.

"(d) If a reduction or discontinuance of compensation payable to a veteran takes effect as provided in subsection (c) of section 3012 of this title, such veteran shall be indebted to the United States in an amount equal to the excess of the total amount of compensation paid to such veteran over the total amount of compensation that would have been paid to such veteran if the reduction or discontinuance of such compensation had taken effect as provided in subsection (b)(6) of such section without regard to subsection (c) of such section.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"3117. Continuation of compensation pending review and appeal.".

TITLE II—AMENDMENTS TO OTHER VETERANS' PROGRAMS

GRANTS FOR ESTABLISHMENT, EXPANSION OR IMPROVEMENT OF STATE VETERANS' CEMETERIES

SEC. 201. Section 1008(a)(2) is amended by adding at the end the following new sentence: "There is also authorized to be appropriated such sums as may be necessary for fiscal year 1985 and for each of the four succeeding fiscal years for the purpose of making such grants.".

REPEAL OF 1989 TERMINATION DATE FOR VIETNAM-ERA GI BILL

SEC. 202. Section 1662(e) is amended to read as follows:

"(e) The Secretary of Defense shall reimburse the Administrator for all amounts of educational or training assistance allowances paid by the Administrator under this chapter or chapter 36 of this title after December 31, 1989.".

MISCELLANEOUS EDUCATION PROGRAM AMENDMENTS

SEC. 203. (a) Section 1602(1)(A) is amended by adding at the end the following new sentence: "Notwithstanding the provision of the preceding sentence making a veteran who is eligible for assistance under chapter 34 of this title ineligible for the educational benefits program provided by this chapter, a veteran who is eligible for assistance under such chapter 34 solely by virtue of the provisions of section 1652(a)(3) of this title may elect to receive benefits under this chapter in lieu of assistance under such chapter 34.".

(b) Section 1733(a) is amended by striking out all after "of this title" the second time it appears and inserting in lieu thereof a period.

(c)(1) Section 1781 is amended—

(A) by inserting "(a)" before "No educational"; and

(B) by adding at the end the following new subsection:

"(b) No person may receive benefits concurrently under two or more of the provisions of law listed below, for the pursuit of the same program of education—

"(1) chapters 31, 32, 34, 35, and 36 of this title;

"(2) section 901 of the Department of Defense Authorization Act, 1981 (Public Law 96-342, 10 U.S.C. § 2141);

"(3) section 903 of the Department of Defense Authorization Act, 1981 (Public Law 96-342, 10 U.S.C. § 2141 note);

"(4) The Hostage Relief Act of 1980 (Public Law 96-499, 5 U.S.C. § 5561 note).".

(2) Section 1795 is amended—

(A) in subsection (a)—

(i) by striking out "laws" and inserting in lieu thereof "provisions of law"; and

(ii) by adding after clause (4) the following new clauses:

"(5) section 901 of the Department of Defense Authorization Act, 1981 (Public Law 96-342, 10 U.S.C. 2141);

"(6) section 903 of the Department of Defense Authorization Act, 1981 (Public Law 96-342, 10 U.S.C. 2141 note);

"(7) the Hostage Relief Act of 1980 (Public Law 96-449, 5 U.S.C. 5561 note);" and

(B) in subsection (b), by striking out "and (4)" and inserting in lieu thereof "(4), (5), (6), and (7)".

SUBSTITUTION OF HOUSING LOAN ENTITLEMENT

SEC. 204. Section 1802(b)(2) is amended by striking out "an immediate" and inserting in lieu thereof "a".

LOAN GUARANTIES FOR MANUFACTURED HOMES PERMANENTLY AFFIXED TO LOTS

SEC. 205. (a) Section 1810 is amended—

(1) by inserting after subsection (a)(8) the following new clause:

"(9) Subject to subsection (f) of this section—

"(A)(i) To purchase a manufactured home to be permanently affixed on a lot that is owned by the veteran.

"(ii) To purchase a manufactured home and a lot on which the home will be permanently affixed.

"(B)(i) To refinance, in accordance with the terms and conditions applicable under the provisions of subsection (e) of this section (other than paragraph (1)(E) of such subsection) to the guaranty of a loan for the purpose specified in clause (8) of this subsection, an existing loan guaranteed, insured, or made under this chapter that is secured by a manufactured home permanently affixed on a lot that is owned by the veteran.

"(ii) To refinance, in accordance with section 1819(a)(5) of this title, an existing loan that was made for the purchase of, and that is secured by, a manufactured home that is permanently affixed to a lot and to purchase the lot on which the manufactured home is affixed."; and

(2) by adding at the end the following new subsection:

"(f)(1) For a loan to be guaranteed for the purpose specified in clause (A)(ii) or (B)(ii) of subsection (a)(9) of this section, the purchase of (or the refinancing of a loan secured by) the manufactured home and the lot for that home shall be considered as one loan and must comply with such criteria as may be prescribed by the Administrator in regulations.

"(2) A loan may not be guaranteed for the purposes of subsection (a)(9) of this section unless the manufactured home purchased, upon being permanently affixed to the lot, is considered to be real property under the laws of the State where the lot is located.

(b) Section 1819(a)(5) is amended by inserting "or section 1810(a)(9)(B)(ii) of this title" after "paragraph (1)(G) of this subsection" both places it appears.

(c) Section 1803(c)(3) is amended—

(1) in clause (A), by striking out "or (8)" and inserting in lieu thereof a comma and "(8), or (9)(B)(i)"; and

(2) in clause (E), by inserting "1810(a)(9)(B)(ii) or" after "section".

EMPLOYMENT EMPHASIS UNDER FEDERAL CONTRACTS FOR VETERANS WITH SERIOUS EMPLOYMENT HANDICAPS

SEC. 206. Section 2011(1) is amended to read as follows:

"(1) The term 'special disabled veteran' means—

"(A) a veteran who is entitled to compensation (or who but for the receipt of military retired pay would be entitled to compensation) under laws administered by the Veterans' Administration for a disability rated at (i) 30 percent or more, or (ii) 10 or 20 percent if such veteran has been determined, under section 1506 of this title, to have a serious employment handicap, or

"(B) a person who was discharged or released form active duty because of service-connected disability.".

PAYMENTS FOR FIDUCIARY SERVICES

SEC. 207. (a) Section 3202(a) is amended—

(1) by inserting "(1)" after "(a)"; and

(2) by adding at the end the following new paragraph:

"(2) In a case in which the Administrator determines that a commission is necessary in order to obtain the services of a fiduciary in the best interests of the beneficiary, the Administrator may authorize a fiduciary appointed by the Veterans' Administration to deduct from the beneficiary's estate a reasonable commission for fiduciary services rendered, but in no event shall (A) the commission for any year exceed four percent of the monetary benefits under laws administered by the Veterans' Administration paid on behalf of the beneficiary to the fiduciary during such year, or (B) any commission be authorized in the case of a fiduciary who receives any other form of remuneration or payment in connection with rendering fiduciary services on behalf of the beneficiary.".

(b) The section heading for section 3202 is amended by striking "guardians" and inserting in lieu thereof "fiduciaries".

(c) The item relating to section 3202 in the table of sections of chapter 55 is amended by striking out "guardians" and inserting in lieu thereof "fiduciaries".

MEMBERSHIP OF SPECIAL MEDICAL ADVISORY GROUP

SEC. 208. Section 4112(a) is amended by inserting a comma and "other individuals considered by the Chief Medical Director to have experience pertinent to the missions of the Department of Medicine and Surgery," after "professions".

PILOT PROJECT FOR EXPEDITING CERTAIN MEDICAL FACILITY CONSTRUCTION PROJECTS

SEC. 209. (a) Subject to subsection (b) and notwithstanding section 5004(a)(1) of title 38, United States Code, or any other provision of law, not to exceed $25,000,000 in funds that were appropriated to the Veterans' Administration, major projects construction account and that the Administrator of Veterans' Affairs has determined are no longer needed either for the projects for which such funds were appropriated or for contingencies arising in the Veterans' Administration's construction program may be obligated in fiscal year 1984 for the purpose of undertaking in fiscal year 1984 working drawings for the construction or alteration of any medical facility in order that such construction or alteration can, subject to appropriations therefor, be undertaken in fiscal year 1985, except that no funds may be obligated under this subsection for working drawings for the replacement or new construction of a complete health-care facility.

(b)(1) The amount obligated for working drawings under subsection (a) for any one medical facility shall not exceed $2,500,000.

(2) No working drawings for the construction or alteration of any particular medical facility shall be undertaken under subsection (a) unless the Administrator, not more than 30 days prior to undertaking the drawings, has provided to the Committees on Veterans' Affairs and on Appropriations of the House of Representatives and the Senate written notice thereof and of the estimated range of the total cost of such construction or alteration and of the cost of the drawings.

(c) For the purpose of this section, the term "medical facility" shall have the meaning specified in section 5001(3) of such title.

SPRINGFIELD CONFEDERATE CEMETERY

SEC. 210. The land comprising the Confederate Cemetery at Springfield, Missouri, shall be considered part of the Springfield National Cemetery, and may be used for the purposes of which national cemeteries may be used chapter 24 of title 38, United States Code. The condition contained in the first section of the Act of March 3, 1911 (36 Stat. 1077, chapter 211), which requires that the land comprising that cemetery be used only as a cemetery for the graves of men who were in the military or naval service of the Confederate States of America is hereby superseded.

TITLE III—EFFECTIVE DATES

SEC. 301. (a) Except as provided in subsections (b), (c), and (d), the provisions of the Act shall take effect on the date of the enactment of this Act.

(b) The amendments made by sections 101 through 106 shall take effect on April 1, 1984.

(c) The amendments made by section 114 shall take effect with regard to determinations made after March 31, 1984, to reduce or discontinue compensation.

(d) The amendments made by section 111, by subsections (a) and (b) of sections 112 and 113, and by section 209, shall take effect on October 1, 1983.

Amend the title so as to read:

A bill to amend title 38, United States Code, to increase the rates of compensation for disabled veterans and the rates of dependency and indemnity compensation for survivors, to increase rates of compensation for certain blinded veterans, to modify the periods during which certain temporary increases in compensation are paid, to provide for continuation of compensation pending the administrative appeal of certain reductions or discontinuances, to make certain improvements in the Veterans' Administration home loan guaranty program, to repeal the 1989 termination date of the Vietnam-era GI Bill, and to make certain improvements in other veterans' programs; to express the sense of the Congress that increases in compensation should take effect on December 1 beginning in fiscal year 1985, and to establish a pilot project to expedite certain medical facility construction projects; and for other purposes.

INTRODUCTION

On May 26, 1983, the Chairman of the Committee, Senator Simpson, introduced four measures at the request of the Administration. The first measure, S. 1388, would provide for a 3.5-percent increase in the rates of disability compensation and dependency and indemnity compensation (DIC). The second Administration-requested measure, S. 1401, would clarify the authority of the Administrator to permit a Federal fiduciary administratively appointed by the Veterans' Administration to deduct from the beneficiary's estate a modest commission for fiduciary services. The third measure, S. 1402, would permit substitution of a veterans' VA housing loan entitlement when the veteran-transferee is not an immediate transferee. The fourth measure, S. 14.3, would provide for a 5-year extension of the authorization of appropriations for Federal matching-fund grants establishing, expanding, and improving State veterans' cemeteries.

Previously, on January 26, 1983, Senator Cranston, the Committee's ranking minority member, introduced S. 8, cosponsored by Senators DeConicini and Hart, which included a provision to eliminate the termination date for the current, Vietnam-era GI Bill education program. An identical provisions was included in legislation introduced by Senator Simpson, S. 667, on March 3.

On February 23, Senator Simpson introduced S. 578, which included a provision to establish a presumption of service-connection for former prisoners of war suffering from dysthymic disorder.

On March 18, Senator Strom Thurmond, together with Senators Inouye, Cohen, Cochran, Cranston, Denton, Exon and Melcher, introduced S. 859. This measure would require the continous payment of disability compensation at an unreduced rate pending review and appeal of a determination to reduce or discontinue such compensation by reasons of a change in service-connected or employability status, or in physical condition, in the case of any veteran whose disability has been rated as total for a period of at least 10 years, ending on the date such determination was made, who files a statement of disagreement with such determination and who requests such continued payment. Subsequently, Senators Grassley, Pryor, Nichols, Zorinsky, Specter and Hawkins have cosponsored this measure.

On May 2, Senator Thurmond, together with Senator Randolph, introduced S. 1187, to provide increased awards of service-connected compensation to certain blinded veterans who are also suffering from hearing disabilities.

On May 26, two amendments to S. 1388 were submitted on behalf of Senator Cranston. The first, cosponsored by Senators Randolph and Matsunaga, is Amendment No. 1302, proposing to modify the rule for the commencement and termination of the period of payment of certain adjustments in compensation in the case of hospitalized veterans. The second, cosponsored by Senators Randolph, Matsunaga, and DeConcini, is Amendment No. 1303 which would express the sense of the Congress that any compensation increases enacted for fiscal year 1985 and subsequent fiscal years shall take effect on December 1 of the fiscal year involved and be budgeted for on that basis.

On June 14, Senator Danforth introduced S. 1470, cosponsored by Senator Eagleton, to transfer the Springfield Confederate Cemetery in Springfield, Mo., to the Springfield National Cemetery and remove a statutory restriction on the use of the land proposed to be transferred.

On June 29, Senator Cranston introduced Amendment No. 1450 to S. 1388. This amendment is designed to permit the construction of certain VA medical facility projects to be expedited.

On June 8, 1983, Senator Simpson conducted a Committee hearing on S. 1388, Amendments No. 1302 and 1303, and related measures pending before the Committee. Testimony was received from Dorothy Starbuck, Chief Benefits Director of the Veterans of Foreign Wars, the Paralyzed Veterans of America, the Blinded Veterans Association, and AMVETS.

After reviewing the testimony received at the June 8 hearing, the Committee met in open session on July 21, 1983, to consider the provisions of S. 1388, Amendments No. 1302 and 1303, and other measures. The Committee voted unanimously to order S. 1388 reported with a title amendment and an amendment in the nature of a substitute, derived in part for the provisions of S. 1388 and Amendments No. 1302, 1303, and 1450, S. 8, S. 578, S. 667, S. 859, S. 1187, S. 1401, S. 1402, S. 1403, and S. 1470.

SUMMARY OF S. 1388 AS REPORTED

S. 1388 as reported (hereinafter referred to as the "Committe bill") has three titles: Disability compensation and dependency and indemnity compensation; Amendments to other veterans' programs; and Effective dates, as follows:

TITLE I: DISABILITY COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION

Part A—Rate Increases

Part A of this title includes amendments to chapters 11 and 13 of title 38, United States Code, which would provide, effective April 1, 1984, a 3.5-percent increase (the same percentage increase provided to social security recipients and VA pension beneficiaries effective December 1, 1983) in—

(1) basic compensation rates for service-connected disabled veterans and, generally, in the rates payable for certain severe disabilities;

(2) the allowances for spouses, children and dependent parents paid to service-connected disabled veterans rated 30-percent or more disabled;

(3) the annual clothing allowance paid to veterans whose compensable disability requires the use of a prosthetic or orthopedic appliance (including a wheelchair) that tends to tear or wear out clothing;

(4) dependency and indemnity compensation (DIC) rates for surviving spouses of veterans whose deaths were service connected:

(5) the additional allowances paid to surviving spouses responsible for dependent children and to surviving spouses who are so disabled as to be in need of regular aid and attendance or to be permanently housebound; and

(6) DIC benefits for the children of veterans whose deaths were service connected where no surviving spouse is entitled to DIC, the child is age 18 through 22 and attending an approved educational institution, or the child is age 18 or over and became permanently incapable of self-support prior to reaching age 18.

In addition, title I of the Committee bill would express the sense of the Congress that cost-of-living adjustment for fiscal years 1985 and beyond should be made effective on December 1 of such fiscal years and that budgets for those years should include amounts to achieve that objective.

Part B—Compensation Program Amendments

Part B of this title includes amendments to chapters 11, 51 and 53 of title 38, United States Code, which would:

(1) Provide for the inclusion of dysthymic order (or depressive neurosis) in the list of diseases of certain former prisoners of war that are presumed to be service connected.

(2) Provide increased awards of compensation to certain blinded veterans who also have hearing disabilities.

(3) Modify the period during which a temporary increase in compensation is paid on account of certain periods of hospitalization or convalescence.

(4) Provide for the continuous payment of disability compensation at 100-percent rate pending review and appeal (and subject to repayment if the veteran loses on appeal) of a determination to reduce or discontinue such compensation as the result of a change in the service-connected or employability status or physical condition of a veteran whose disability has been rated as total for at least 10 years and who, within 30 days after such determination, files a statement of disagreement and requests continuous payment.

TITLE II: AMENDMENTS TO OTHER VETERANS' PROGRAMS

This title includes amendments to chapters 24, 32, 34, 35, 36, 37, 42, 55, 73 and 81 of title 38, United States Code, as well as freestanding provisions of law, which would:

(1) Extend for 5 fiscal years the authorization of appropriations for grants to States for establishing, expanding, or improving State veterans' cemeteries.

(2) Repeal the December 31, 1989, termination date for the current, Vietnam-era GI Bill and provide for reimbursement to the VA by the Department of Defense for all amounts of Vietnam-era GI Bill benefits paid by the VA after December 31, 1989.

(3) Make modifications in several educational provisions to—

(a) allow certain individuals who have eligibility for educational assistance under the Vietnam-era GI Bill program, as well as under the Post-Vietnam Era Educational Assistance program, to elect under which program to receive benefits;

(b) conform the manner in which survivors' educational assistance benefits are computed for pursuit of high school or equivalency training to the manner in which benefits are computed for such training under the GI Bill for veterans;

(c) bar receipts of benefits under more than one educational assistance program administered by the VA for pursuit of the same program of education; and

(d) expand, to include certain recently enacted programs, the scope of the 48-month limitation on the total amount of benefits which may be paid those entitled to participate in two or more educational programs administered by the VA.

(4) Permit substitution of a veteran's home-loan guaranty entitlement when the veteran-transferee is not an immediate transferee.

(5) Provide for the guarantee of a loan for the purchase (or refinancing) of a manufactured home on the same terms and conditions as a conventionally-built home if the manufactured home is or will be permanently affixed to a lot and, as so affixed, is regarded as real property under the law of the State where the lot is located.

(6) Include in the definition of "special disabled veteran" for the purposes of certain veterans' employment programs those individuals in receipt of compensation for disabilities rated 10- or 20-percent disabling if they have been determined, under the VA's rehabilitation program for service-connected disabled veterans, to have substantial employment handicaps.

(7) Authorize the VA to permit VA-appointed fiduciaries to deduct from beneficiaries' estates reasonable commissions for fiduciary services rendered where the Administrator of Veterans' Affairs determines such commissions are necessary in order to obtain fiduciary services that are in the best interests of the beneficiaries.

(8) Expand the membership of the VA's Special Medical Advisory Group to include individuals, other than members of specified health and allied scientific professions, who have experience pertinent to the missions of the VA's Department of Medicine and Surgery.

(9) Permit certain medical facility construction projects to be expedited by authorizing the Administrator to obligate up to $25 million from the construction projects working reserve fund in fiscal year 1984 in order to undertake working drawings for certain construction projects prior to the adoption of resolutions approving the projects by the House and Senate Veterans' Affairs Committees and to the approval of the projects in the appropriations process.

(10) Provide that land comprising the present Springfield (Missouri) Confederate Cemetery shall be considered part of the Springfield National Cemetery and remove a restriction on the use of that land which permits burial of only Confederate veterans.

DISCUSSION

TITLE I: DISABILITY COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION

Part A—Rate Increases

Background

Disability compensation

The service-connected disability compensation program provides monthly cash benefits to veterans who have suffered disabilities during, or as a result of, their service in our Nation's Armed Forces. This program ranks as the highest program priority of the Veterans' Affairs Committee.

The amount paid in individual instances is contingent upon the nature of the veterans' disability or combination of disabilities and the extent to which earning capacity is considered to have been impaired. Compensable disabilities are rated according to the VA's Schedule of Rating Disabilities on a graduated scale ranging from 10- to 100-percent rate. Higher monthly rates are payable to totally disabled veterans with certain specific, very severe disabilities and combinations of disabilities.

The Veterans' Administration disability compensation program in July 1983 provided benefits for 2,265,099 veterans who had service-connected disabilities. This number is composed of disabled veterans with the following periods of service: 18,572 World War I veterans; 1,115,684 World War II veterans; 229,103 Korean-conflict veterans; and 585,689 Vietnam-era verterans.

The following table shows average costs and caseloads for veterans and survivors:

TABLE 1.—COMPENSATION—SUMMARY OF REQUIREMENTS

[Total cost in thousands of dollars]

Total costs	Fiscal year 1982			Fiscal year 1983 (estimated)			Fiscal year 1984 (estimated)		
	Average cases	Average cost	Total cost	Average cases	Average cost	Total cost	Average cases	Average cost	Total cost
Compensation (total)	2,629,370	3,545	9,321,529	2,616,000	3,734	9,767,586	2,612,250	3,773	9,856,000
Veterans (total)	2,276,684	3,338	7,598,642	2,267,000	3,500	7,934,759	2,274,750	3,541	8,018,440
Spanish American War	3	10,000	30	3	9,667	2	3	9,667	29
Mexican Border period	5	5,800	29	4	9,250	37	4	9,250	37
World War I	23,291	3,997	93,093	20,000	4,196	83,920	16,900	4,238	71,617
War World II	1,153,051	3,160	3,643,997	1,122,000	3,301	3,703,210	1,097,243	3,330	3,653,775
Korean conflict	232,611	3,757	873,933	230,650	3,914	902,856	228,603	3,962	905,604
Vietnam era	574,191	3,416	1,961,241	583,171	3,593	2,095,544	592,000	3,637	2,152,930
Peacetime service	293,532	3,496	1,026,319	311,172	3,693	1,149,163	330,000	3,741	1,234,448
Survivors (total)	352,686	4,828	1,702,595	349,000	5,189	1,811,050	347,500	5,225	1,815,749
Civil War	4	3,500	14	3	5,333	16	3	5,333	16
Spanish American War	110	5,291	582	95	5,832	554	85	5,953	506
Mexican Border period	1	11,000	11	1	12,000	12	1	12,000	12
World War I	27,919	5,326	148,690	26,501	5,708	151,270	25,300	5,716	144,611
War World II	167,684	4,291	719,495	164,200	4,614	57,539	161,700	4,650	751,886
Korean conflict	39,006	64,670	182,156	38,700	5,017	194,172	38,500	5,025	193,472
Vietnam era	67,391	5,384	362,832	68,500	5,791	396,675	70,400	5,828	410,271
Peacetime service	50,571	5,711	288,815	51,000	6,094	319,812	51,511	6,155	314,975
Clothing allowance (total)	(66,988)	303	20,292	(66,800)	326	21,777	(66,700)	327	21,811

Source: Department of Veterans' Benefits, Veterans' Administration, July 1983.

History of cost-of-living increases

The Committee periodically reviews the service-connected disability compensation program with a view toward assuring that the benefits authorized provide reasonable and adequate compensation for disabled veterans and their families. Congress has traditionally acted periodically to provide cost-of-living increases in compensation benefits, in order to assure that those benefits keep pace with inflation.

The following table shows statutory increases in the rates of disability compensation since 1957:

TABLE 2.—HISTORY OF SERVICE-CONNECTED DISABILITY COMPENSATION INCREASES, 1957 TO PRESENT

Sec. 314, title 38, subsection—	Public Law 85–168, Oct. 1, 1957, monthly rate	Public Law 87–645, Oct. 1, 1962		Public Law 89–311, Oct. 31, 1965		Public Law 90–493, Jan. 1, 1969		Public Law 91–376, July 1, 1970		Public Law 92–328, Aug. 1, 1972		Public Law 93–295, May 1, 1974	
		Percentage increase	Monthly rate	Percentage increase	Monthly rate	Percentage increase	Monthly rate	Percentage increase	Monthly rate	Percentage increase	Monthly rate	Percentage increase	Monthly rate
(a)	$19	0.3	$20	5.0	$21	9.5	$23	8.7	$25	12.0	$28	15	$32
(b)	36	5.6	38	5.3	40	7.5	43	7.0	46	10.8	51	15	59
(c)	55	5.5	58	3.4	60	8.3	65	7.7	70	10.0	77	15	89
(d)	73	5.5	77	6.6	82	8.5	89	7.9	96	10.4	106	15	122
(e)	100	7.0	107	5.6	113	8.0	122	10.7	135	10.3	149	15	171
(f)	120	6.7	128	6.3	136	8.1	147	10.9	163	9.8	179	18	211
(g)	140	6.4	149	7.4	161	8.1	174	10.9	193	9.8	212	18	250
(h)	160	6.3	170	9.4	186	8.1	201	10.9	223	9.9	245	18	289
(i)	179	6.7	191	9.4	209	8.1	226	10.6	250	10.0	275	18	325
(j)	225	11.1	250	20.0	300	33.3	400	12.5	450	10.0	493	18	584
(k)												10	52
(l)	309	10.0	340	17.6	400	25.2	500	12.0	560	10.0	616	18	727
(m)	359	8.6	390	15.4	450	22.2	550	12.0	616	10.1	678	18	800
(n)	401	9.7	440	19.3	525	18.2	625	12.0	700	10.0	770	18	909
(o)	450	16.7	525	14.3	600	16.7	700	12.0	784	9.0	862	18	1,017
(p)	450	16.7	525	14.3	600	16.7	700	12.0	784	9.9	862	18	1,017
(q)													
Subsec. (r) "aid and attendance" nonhospitalization, Public Law 82–782, effective Oct. 1, 1958:													
(1)	150	33.3	200	25.0	250	20.0	300	12.0	336	10.1	370	18	437
(2)													
Subsec. (s) (housebound cases), Public Law 86–663, effective Sept. 1, 1960	265	9.4	290	20.7	350	28.8	450	12.0	504	9.9	554	18	654
(t)													
Sec. 362 of title 38													

TABLE 2.—HISTORY OF SERVICE-CONNECTED DISABILITY COMPENSATION INCREASES, 1957 TO PRESENT—Continued

Sec. 315, title 38, subsection—	Public Law 94-71, Aug. 1, 1975		Public Law 94-433, Oct. 1, 1976		Public Law 95-117, Oct. 1, 1977		Public Law 95-479, Oct. 1, 1978		Public Law 95-128, Oct. 1, 1979		Public Law 96-385, Oct. 1, 1980		Public Law 97-66, Oct. 1, 1981		Public Law 97-306, Oct. 1, 1982	
	Percentage increase	Monthly rate	Percentage increase	Monthly rate	Percentage increase	Monthly rate	Percentage increase	Monthly rate	Percentage increase	Monthly rate	Percentage increase	Monthly rate	Percentage increase	Monthly rate	Percentage increase	Monthly rate
(a)	9.4	$35	8.6	$38	6.6	$41	7.3	$44	9.9	$48	13.0	$54	8.0	$58	6.9	$62
(b)	10.2	65	7.7	70	6.6	76	7.3	80	9.9	88	13.0	99	8.0	107	6.5	114
(c)	10.1	98	8.2	106	6.6	113	7.3	121	9.9	133	13.0	150	8.0	162	6.8	173
(d)	9.8	134	8.2	145	6.6	155	7.3	166	9.9	182	13.0	206	12.6	232	7.3	249
(e)	9.9	188	8.0	203	6.6	216	7.3	232	9.9	255	14.3	291	12.6	328	7.3	352
(f)	11.9	236	8.1	255	6.6	272	7.3	292	9.9	321	14.3	367	12.6	413	7.3	443
(g)	12.0	280	7.9	302	6.6	322	7.3	346	9.9	380	14.3	434	20.0	521	7.3	559
(h)	12.1	324	8.0	350	6.6	373	7.3	400	9.9	440	14.3	503	20.0	604	7.3	648
(i)	12.0	364	8.0	393	6.6	419	7.3	450	9.9	495	14.3	566	20.0	679	7.4	729
(j)	12.2	655	7.9	707	6.6	754	7.3	809	9.9	889	14.3	1,016	11.2	1,130	7.3	1,213
(k)	0	52	8.0	879	6.6	56	0	56	0	[2] 56	0	62	0	62	0	62
(l)	12.0	814	8.0	879	6.6	937	7.3	1,005	9.9	1,104	14.3	1,262	11.2	1,403	7.3	1,506
(m)	12.0	896	8.0	968	6.6	1,032	7.3	1,107	9.9	1,217	14.3	1,331	11.2	1,547	7.4	1,661
(n)	12.0	1,018	8.0	1,099	6.6	1,172	7.3	1,258	9.9	1,383	14.3	1,581	11.2	1,758	7.4	1,888
(o)	12.0	1,139	8.1	1,231	6.6	1,312	7.3	1,408	9.9	1,547	14.3	1,768	11.2	1,966	7.4	2,111
(p)	12.0	1,139	8.1	1,231	6.6	1,312	7.3	1,408	9.9	1,547	14.3	1,768	11.2	1,966	7.4	2,111
(q)													0	67	0	67
Subsec. (r) "Aid and Attendance" nonhospitalization, Public Law 85-782, effective Oct. 1, 1958:																
(1)	11.9	489	0	528	6.6	563	7.3	604	9.9	664	14.3	759	11.2	844	7.3	906
(2)							([1])	900		989	14.3	1,130	11,2	1,257	7.4	1,350
Subsec. (s) (housebound cases), Public Law 86-663, effective Sept. 1, 1960)	11.9	732	7.7	791	6.6	843	7.3	905	9.9	995	14.3	1,137	11.2	1,264	7.4	1,357
(t)							([1])	175		192	14.3	219	11.2	244	7.4	262
Sec. 362 of title 38			8.6	190	6.6	203	7.3	218	9.9	240	14.3	274	11.2	305	7.2	327

[1] From Oct. 1978.

[2] (k) $62 effective Sept. 1, 1980 (9.9 percent increase)

Source: Department of Veterans' Benefits, Veterans' Administration, July 1983.

Dependency and indemnity compensation (DIC)

The dependency and indemnity compensation (DIC) programs, which supplanted the earlier death compensation program, was established in 1956 with the enactment of the Servicemen's and Veterans' Survivors Benefit Act (Public Law 84–881).

DIC is paid to the survivors—surviving spouses, unmarried children under the age of 18, as well as certain helpless children age 18 or over, children between the ages of 18 and 23 who are enrolled in school, and certain needy parents—of servicemen or veterans who died on or after January 1, 1957, from: (1) a disease or injury incurred or aggrevated in line of duty while on active duty or active duty training; or (2) an injury incurred or aggravated in line of duty while on inactive duty training; or (3) a disability compensable under laws administered by the VA.

Surviving spouses, children, and parents who are receiving death compensation by reason of a veteran's death occurring before January 1, 1957, may elect to receive DIC benefits in lieu of death compensation. Once they so elect, however, they cannot, thereafter, receive death compensation.

DIC is paid to surviving spouses at rates determined by the pay grade—service rank—of the deceased veteran. A higher rate is payable if the surviving spouse is so disabled as to be housebound or in need of regular aid-and-attendance, and additional amounts are payable for the veterans' surviving children. Children become entitled to DIC where there is no surviving spouse, or where the child age 18 or older has become permanently incapable of self support before reaching the age of 18 or the child is age 18 to 23 and pursuing an approved course of education.

DIC benefits are currently paid to or for survivors of 366,170 veterans.

In addition, DIC is paid to the needy surviving parents of a veteran whose death was service connected. Under Public Law 95–588, the provisions of chapter 13 of title 38, United States Code, governing the parents' DIC rates, were amended to provide for automatic annual adjustments at the same time and by the same percentage as social security benefits.

Under section 410(b) of title 38, benefits are also paid at DIC rates to the suviving spouse and children of veterans whose deaths are not determined to be service connected where the veteran received compensation at the 100-percent rate over an extended period of time immediately prior to his or her death.

Committee Bill Provisions

The Committee bill provide for a 3.5 percent cost-of-living increase, effective April 1, 1984, in the service-connected disability compensation and DIC benefit rates. This percentage increase is the same percentage increase provided to social security beneficiaries and VA pensioners eligible for benefits under the new pension program established by Public Law 95–588. In calculating the increases, the Committee has rounded up to the next higher dollar all amounts of $0.50 or more; amounts of less than $0.50 have been rounded down.

The Committee's rationale for establishing the April 1, 1984, effective date is set forth at pages 12 and 13 of the Committee's "Budget Views and Estimates for Fiscal Year 1984", Senate Print 98–44, which was submitted to the Senate Budget Committee on March 1, 1983. On page 13 of that document, the Committee reiterated its policy of keeping compensation rate increases generally the same as the cost-of-living adjustments (COLA's) paid to social security and VA pension beneficiaries. Subsequent to the publication of that document, the Social Security Administration announced the actual increase, determined by the rise in the Consumer Price Index for the first quarter of calandar year 1983 over the first quarter of calendar year 1982, for its COLA would be 3.5 percent. By virtue of section 111 of the Social Security Act Amendments of 1983 (Public Law 98–21), that increase is effective December 1, 1983. Since, pursuant to section 3112 of title 38, the timing and percentage of VA pension COLA's are indexed to social security COLA's, VA pension recipients will also receive a 3.5 percent increase effective December 1, 1983. In keeping with its well-established policy, the Committee's recommendation for the 1984 compensation COLA to the Senate is an increase of 3.5 percent.

Disability compensation increases

The 3.5-percent increase provided for by the Committee bill would apply to the monthly rates of disability compensation under section 314 of title 38, United States Code, except for the monthly rate specified in subsection (k) of section 314; the rates of additional monthly compensation for dependents payable under section 315 to veterans rated 30 percent or more disabled; and the annual clothing allowance under section 362 for disabled veterans who must use prosthetic or other orthopedic appliances, such as wheelchairs, that tend to tear or wear out their clothing. The maximum monthly amounts specified in subsections (k) and (p) of section 314 would also be increased. Those are specified dollar amounts that may not be exceeded in the event that a veteran would otherwise be entitled to a higher amount by reason of entitlement to two or more monthly rates.

The following table shows the July 1983 rates of disability compensation and those proposed by the Committee bill, together with the number of veterans receiving compensation in each category:

TABLE 3.—COMPARISON OF COMPENSATION RATES UNDER PRESENT LAW AND UNDER S. 1388 AS REPORTED

Applicable subsection of sec. 314, United States Code	Percentage of disability	Increase in monthly rate		Number of Veterans
		From	To	
(a)	(10)	$62	$64	887,255
(b)	(20)	114	118	357,444
(c)	(30)	173	179	316,402
(d)	(40)	249	258	186,465
(e)	(50) [1]	352	364	114,069
(f)	(60) [1]	443	459	120,731
(g)	(70) [1]	559	579	68,223

TABLE 3.—COMPARISON OF COMPENSATION RATES UNDER PRESENT LAW AND UNDER S. 1388 AS REPORTED—Continued

Applicable subsection of sec. 314, United States Code	Percentage of disability	Increase in monthly rate		Number of Veterans
		From	To	
(h)	(80) [1]	648	671	37,933
(i)	(90) [1]	729	754	14,079
(j)	(100)	1,213	1,255	139,755

[1] Includes cases in which payment is made at the total disability rate due to individual unemployability.

HIGHER STATUTORY AWARDS FOR CERTAIN MULTIPLE DISABILITIES

Applicable subsection of sec. 314 United States Code	Percentage of disability	Increase in monthly rate		Number of veterans
		From—	To—	
(k)(1)	Anatomical loss or loss of use of 1 or more creative organ, 1 foot, 1 hand, or both buttocks, or blindness of 1 eye, or complete organic apnonia, or deafness of both ears—for each loss.	62	62	
(2)	Maximum limit for veterans receiving payments under (a) to (j), above.	1,506	1,559	85,218
(3)	Maximum limit for veterans receiving payments under (i) to (n), below.	2,111	2,185	
(l)	Anatomical loss or loss of use of both hands, both feet, 1 foot and 1 hand, blindness in both eyes, permanently bedridden or so helpless as to require regular aid and attendance.	1,506	1,559	8,257
(m)	Anatomical loss or loss of use of 2 extremities so as to prevent natural elbow or knee action with prosthesis in place, or blind in both eyes, either with light perception only or rendering veteran so helpless as to require regular aid and attendance.	1,661	1,719	4,967
(n)	Anatomical loss of 2 extremities so near shoulder or hip as to prevent use of prosthesis or anatomical loss of both eyes.	1,888	1,954	953
(o)	Disability under conditions entitling veteran to 2 or more of the rates provided in (l) through (n), above, no condition being considered twice in the determination, or deafness rated at 60 percent or more in combination with total blindness.	2,111	2,185	305
(p)(1)	For blindness of both eyes together with bilateral deafness rates at 40 percent or more disabling of total deafness of 1 ear, next higher rate or intermediate rate, respectively is payable—but compensation may not exceed.	2,111	2,185	1,871
(2)	Anatomical loss or loss of use of three extremities, next higher rate or intermediate rate is payable—but compensation may not exceed.	2,111	2,185	1,871
(q)	[This subsection repealed by Public Law 90–493].			
(r)(1)	If veteran entitled to compesnation at the rate provided for under (o), above, or at the maximum rate under (p), above, is in need of regular aid and attendance, in addition to such rate.	906	938	7,016
(2)	If veteran described in (r)(1), above, is in need of a higher level of care by a licensed health-care professional or a person under the regular supervision of such a professional, in addition to the rate payable under (o) or (p).	1,350	1,397	1,581
(s)	If veteran has a disability rated as total, plus additional disability independently ratable at 60 percent or over, or is permanently housebound.	1,357	1,404	7,019

HIGHER STATUTORY AWARDS FOR CERTAIN MULTIPLE DISABILITIES—Continued

Applicable subsection of sec. 314 United States Code	Percentage of disability	Increase in monthly rate		Number of veterans
		From—	To—	
(t)	If veteran entitled to compensation under (a) through (i) above, has suffered the service-connected loss or loss of use of an extremity ratable at 40 percent or more and the non-service-connected loss or loss of use of paired extremity, and the latter loss would be rated at 40 percent or more if service connected, in addition to the rate payable under (a) through (i), above.	262	271	66

Department of Veterans' Benefits, Veterans' Administration, May 1983.

Source: Section 314 of title 38, United States Code, July 1983.

Dependents' allowances increases

Veterans whose disabilities are rated at 30 percent or more may receive additional compensation for the veteran's spouse, children and dependent parents. Under the Committee bill, those dependents' allowances would also be increased by 3.5 percent. Such dependents' allowances are prorated according to the percentage of disability. As of May 1983, the number of dependents for whom veterans received additional compensation exceeded 1,158,929.

The following table shows the current rates of additional compensation for dependents and those that would be provided for under the Committee bill:

TABLE 4.—ADDITIONAL COMPENSATION FOR DEPENDENTS

	Monthly rate	
	From—	To—
Spouse	$74	$77
Spouse and child	124	128
No spouse, 1 child	50	52
Each additional child	40	41
Each dependent parent	60	62
Each child age 18 to 22 attending school	112	116
Spouse in nursing home or severely disabled	134	139

Source: Section 315 of title 38, United States Code, July 1983.

Dependency and indemnity compensation increases

The Committee bill would also provide for a cost-of-living increase of 3.5 percent in DIC rates for surviving spouses and children, the same rate of increase provided service-connected disabled veterans in the Committee bill. Additional allowances for surviving spouses in need of aid and attendance or housebound, helpless children age 18 or over, and children between the ages of 18 and 23 attending school would also be increased by 3.5 percent.

The following table shows a comparison of those rates under current law with the rates provided for under the Committee bill:

TABLE 5.—COMPARISON OF MONTHLY DIC RATES UNDER PRESENT LAW AND S. 1388 AS REPORTED

Base monthly rates to surviving spouses	From—	To—	Base monthly rates to surviving spouses	From—	To—
Veterans' pay grade:					
E–1	$445	$461	W–4	$639	$661
E–2	459	475	0–1	563	583
E–3	470	486	0–2	582	602
E–4	500	518	0–3	622	644
E–5	514	532	0–4	658	681
E–6	526	544	0–5	726	751
E–7	552	571	0–6	817	846
E–8	582	602	0–7	884	915
E–9	603	629	0–8	969	1,003
W–1	563	583	0–9	1,041	1,077
W–2	586	607	0–10	1,139	1,179
W–3	603	624			

Source: Section 411 of title 38, United States Code, July 1983.

TABLE 6.—ADDITIONAL PAYMENTS

	From—	To—
Surviving spouse, addition for each child	$51	$53
Addition if surviving spouse in need of regular aid and attendance	134	139
Surviving child (where no surviving spouse is entitled)	225	233
2 such children [1]	323	334
3 such children	417	432
More than 3 children, addition for each additional child	84	87
Addition if such child is helpless	134	143
Helpless child, where surviving spouse is also entitled	225	233
Child attending school, where surviving spouse is also entitled	114	118

[1] If there is more than 1 surviving child, an equal share of the total amount is paid to each child.

Source: Sections 411, 413, 414 of title 38, United States Code, July 1983.

The 3.5-percent increase would also be applicable to benefits paid at DIC rates under section 410(b) of title 38, United States Code, to the surviving spouses and children of certain totally disabled service-connected disabled veterans whose deaths were not service connected.

Effective Date of Future Increases

Section 107 of the Committee bill would express the sense of the Congress that future cost-of-living adjustments (COLA's) in rates of veterans' disability compensation and survivors' DIC in fiscal year 1985 and beyond should take effect on December 1 of fiscal year involved. It would further state that it is the sense of the Congress that budgets for fiscal year 1985 and each subsequent year should include the necessary funds to make compensation COLA's effective on the December 1 date. This provision is derived from the provisions of Amendment No. 1303 which was submitted for Senator Cranston by Senator Byrd on May 26 and which is cosponsored by Senators Randolph, Matsunaga, and DeConcini.

Congressional agreement has been reached to delay by 6 months the 1983 COLA's in Federal income security programs. Legislation was enacted on April 20—in section 111 of the Social Security Amendments of 1983 (Public Law 98-21)—to delay until December 1, 1983, the social security increase that otherwise would have automatically occurred on June 1, 1983. Since both the timing and percentage of VA non-service-connected pension COLA's are, under section 3112 of title 38, United States Code, tied to the indexing of social security benefits, a 6-month delay, from June 1 to December 1, 1983, in the effective date of the increase in that VA program will automatically occur as a consequence of the social security COLA delay enacted in Public Law 98-21.

However, in the cases of VA compensation and DIC, there is no provision of law linking these programs to social security or otherwise providing for automatic COLA's. For the last 7 years, however, the Congress had adopted the practice of providing annual increases in these benefits effective each October 1.

This year, in accordance with the 6-month-delay agreement for Federal income security programs, which is reflected in the First Concurrent Resolution on the Budget for Fiscal Year 1984 (H. Con. Res. 91), sections 101 through 106 of the Committee bill would provide for a compensation/DIC COLA effective April 1, 1984—6 months later than the date, October 1, 1983, that the increase would customarily have been made effective. This 6-month postponement of the COLA would produce fiscal year 1984 savings of approximately $170 million. There is general agreement among veterans' organizations that this 6-month delay is acceptable as long as other COLA's are similarly delayed.

However, the Committee believes that at the earliest opportunity the Congress should take action to provide assurance that the effective date of future increase in VA compensation rates is consistant with the date on which other program increases are effective—December 1. Thus, section 107 of the Committee bill provides that any future compensation COLA's should take effect on December 1 of each fiscal year, as will increases under the social security and VA pension programs.

A major advantage of this approach is that under it Congress would be enacting compensation/DIC COLA's each year based on an equitable and actual, rather than a projected, inflation factor—the social security COLA percentage—without a built-in "lag time" between the end of the period on which that inflation factor is computed and the date on which it would be made effective with respect to the compensation program. Beginning with the December 1, 1984, social security COLA, Public Law 98-21, in permanently changing the social security COLA date to December 1, also moved from the first quarter to the third quarter of the calendar year the period on which the annual COLA is based. Thus, the December 1 effective date for the social security COLA will institute a COLA based on a third-quarter-to-third-quarter increase in the applicable inflation indicator within a few weeks after that increase is computed—in early November.

The Committee notes that the first budget resolution for fiscal year 1984 makes provision in the outyears for compensation/DIC COLA's effective on December 1, 1985, and 1986.

If enacted into law, this section of the Committee bill would declare and confirm that the Congress believes that the effective December 1 and thus aligned with the effective date of Social Security Act-indexed COLA's.

PART B—COMPENSATION PROGRAM AMENDMENTS

Presumption Concerning Dysthymic Disorder

Section 111 of the Committee bill would add dysthymic disorder (or depressive neurosis) to the list of diseases presumed service connected contained in section 312 of title 38. The Committee notes that on June 28, 1983, a substantively identical provision passed the Senate in title IV of H.R. 2920 as amended with the text of S. 578, the proposed "Veterans' Health Care and Programs Improvement Act of 1983", as reported by the Committee on May 23. Since the intent of the provision relates to presumptive bases for service-connected disabilities for former prisoners of war, and thus to compensation, the Committee decided to recommend that this provision be made a part of this bill.

Rather than reiterate the explanation of and justification for this provision set forth in the portion of the "Discussion" in the Committee's report on S. 578 dealing with title IV of that bill (S. Rept. No. 98-145, pages 59-66), the Committee incorporates that portion of that report by reference.

Rates of Compensation for Certain Blinded Veterans

The Committee bill in section 112 would adjust compensation rates in section 314 of title 38 which are paid to certain blinded veterans who also suffer from service-connected hearing loss.

Under present law, a veteran who has suffered service-connected total blindness, defined as bilateral visual acuity of 5/200 or less, is rated under subsection "l" of section 314 if the visual acuity is 5/200; under subsection "m" if the veteran has only light perception; and under subsection "n" if there is no light perception.

Veterans who have suffered service-connected total blindness with 5/200 visual acuity or less, and who have also suffered a significant hearing loss, are granted increased compensation awards for these combined disabilities under subsections "o" and "p" of section 314. Under subsection "o", blinded veterans with bilateral deafness (with the hearing impairment in one or both ears being service connected) rated at 60 percent or more disabling are paid at the maximum rate of compensation. Under subsection "p", blinded veterans with bilateral deafness (with the hearing impairment in one or both ears being service connected) rated at no less than 40-percent disabling are compensated at the next higher rate; blinded veterans who suffer service-connected total deafness in one ear are compensated at the next intermediate rate.

On May 2, Senator Thurmond introduced legislation, S. 1187, cosponsored by Senator Randolph, which proposed to raise to the maximum compensation level, or "o" rate, those blinded veterans with bilateral hearing loss rated at 20-percent disabling or with total service-connected deafness in one ear.

The Committee, recognizing that even a minor hearing loss, when combined with total blindness, can be a severe handicap, carefully reviewed the testimony on this legislation and concluded that, under present law, many blinded veterans with hearing losses do not receive adequate compensation. The Committee bill would, therefore, adjust the compensation rates for certain of these veterans.

Specifically, subsection "o" would be amended to lower from 60-percent disabling to 40-percent disabling the bilateral level of hearing loss a veteran must have suffered before becoming eligible for disability compensation at the "o" rate, the maximum category for compensating combined disabilities warranting special monthly payments. In addition, subsection "p" would be amended to reduce from 40-percent disabling to 30-percent disabling bilateral deafness, or total service-connected deafness in one ear, as the level of hearing loss a veteran must have suffered to be eligible for a full step increase.

The provisions of the Committee bill provide more moderate adjustments than those proposed in S. 1187. The Committee believes strongly that before additional changes are considered more study should be given to the severity of disability suffered by those with deafness and with deafness in combination with other disabilities, in this case, blindness.

Therefore, the Committee bill mandates a VA study of the degree to which deafness, and deafness combined with other disabilities, impedes veterans from obtaining employment, and the appropriateness of the current rating schedule for such veterans. This VA report would include findings and recommendations for legislative or administrative action with regard to the appropriateness of compensation rates for deaf veterans and the amelioration of any inequities found. This report would be required to be completed and submitted to the Committees within a year of enactment of the bill.

Increases in Compensation on Account of Certain Periods of Hospitalization

Section 113 of the Committee bill would modify the period during which a temporary increase in compensation, to the 100-percent rate, is paid on account of certain periods of hospitalization and convalescence for the service-connected disabilities of veterans rated less than 100-percent disabled. The provisions of this section are derived from Amendment No. 1302, submitted on May 26, 1983, on behalf of Senator Cranston by Senator Byrd and cosponsored by Senators Randolph and Matsunaga. These provisions respond to the same problem to which attention was first called by S. 995, introduced by Senator Exon and now cosponsored by 28 Senators—a problem created last year by section 401 of the Omnibus Budget Reconciliation Act of 1982, discussed below.

Background

Prior to the enactment of Public Law 97-253, the Omnibus Budget Reconciliation Act of 1982, any veteran rated less than totally disabled who was hospitalized for the treatment of a service-connected disability for 21 days or more had his or her rate of service-connected disability compensation raised to the 100-percent level. That increase—which was provided for by VA regulations (section 4.29 of title 38, Code of Federal Regulations) and known popularly as an increase under paragraph 29—took effect, retroactively, to the first day of hospitalization once the veteran met the 21-day requirement, and continued to be paid until the last day of the month on which discharge from the hospital occurred.

In the case of a veteran who was already hospitalized for a non-service-connected disability at the time hospital care for a service-connected disability commenced, the initiation of treatment for the service-connected disability had the same effect as a hospital admission, and the paragraph 29 increase was awarded retroactive to the date that treatment began if hospital care for the service-connected disability continued for at least 21 days. Similarly, when treatment for the service-connected disability was completed and the veteran remained in the hospital for care for a non-service-connected disability, the completion of the service-connected treatment had the same effect under paragraph 29 as a hospital discharge.

Under so-called paragraph 30 (section 4.30 of title 38, Code of Federal Regulations), a veteran whose care for a service-connected disability entailed certain surgical or other procedures, such as immobilization by a cast, was also granted a temporary 100-percent rating, regardless of the duration of any hospitalization. These increased ratings were payable for the period beginning on the date of hospital admission and continued "for a period of 1, 2, or 3 (or more) months from the first day of the month following . . . hospital discharge" depending on the medical circumstances of the case.

Last year, as part of the mandated reconciliation process designed to effectuate cost-savings, the Congress passed and the President signed into law a provision proposed by the Administration—enacted as section 401 of the Omnibus Budget Reconciliation Act of 1982, Public Law 97-253—that delayed the commencement of periods of payment for VA compensation, DIC and pension benefits. Thus, instead of the date considered for other purposes as the effective date for a new award or an increase in compensation, the period of payment now, under the 1982 law, commences on the first day of the calendar month following the effective date of the award or increase. This modification was made applicable to all awards and increases of VA compensation and pension benefits, including the so-called paragraph 29 and paragraph 30 benefits. The provision establishing the end point of the period of payment—the last day of the month in which hospital discharge or the termination of treatment or of convalescence occurs—was not modified.

The total statutory change effectuated by section 401 was estimated by the Congressional Budget Office to save $53.5 million in fiscal year 1983, $56.3 million in fiscal year 1984 and $59.2 million in fiscal year 1985. The savings associated with the paragraphs 29 and 30 provisions, according to CBO's present estimate of the cost of reinstating prior law, are $7.6 million in fiscal year 1984 and $7.7 million in each of fiscal years 1985 and 1986.

Not foreseen at the time of enactment of section 401 was a problem of inequity created by that amendment: Veterans who are hospitalized for identical periods of time may be treated differently in terms of increased compensation awards under paragraphs 29 and 30. The same is true for veterans whose combined periods of hospital care and convalescence are of identical duration.

The following cases illustrate the inequities that can occur under the present law with respect to the dates on which the hospitalizations begin:

> Veteran "A" enters the hospital on May 20 and remains hospitalized for 25 days, through June 13, for the treatment of a service-connected disability rated 30-percent disabling. Under current law, veteran "A" becomes eligible for an increased award of compensation on the 21st day, and that increase is paid for the period June 1—the first day of the month following the date of hospitalization—through June 30, the last day of the month in which discharge occurred.
>
> In contrast, veteran "B" enters the hospital on May 2 for the treatment of an identical 30-percent disabling condition. He remains in the hospital through May 26—also a 25-day period of hospitalization. However, veteran "B" has not established eligibility for the payment of increased compensation because he is discharged from the hospital prior to June 1.
>
> Inequities also can occur by virtue of the dates on which hospitalizations terminate.
>
> To illustrate, veteran "C" enters the hospital on May 31 and remains hospitalized for service-connected care through July 2—33 days. Veteran "C" is eligible for increased compensation for 2 months, June and July. Veteran "D", in contrast, enters on May 25 and remains hospitalized for service-connected care through June 26—again 33 days. Veteran "D", who was hospitalized for the same length of time as veteran "C", is eligible for increased compensation for 1 month only, June. Similar inequities exist with respect to the payment of increased compensation paid during a period of convalescence.

The Committee, while sympathetic to remedying these inequities, notes that restoration of the law to the way it was prior to the enactment of the reconciliation law last year—as proposed by Senator Exon's bills, S. 995—would not completely resolve the problem. Certain inequities existing under both prior and current law would not be removed: Those which arise from the payment of a full month of compensation at the 100-percent rate for the last month in which hospital treatment, observation or convalescence occurs, regardless of how many days during that month the veteran was hospitalized or convalescent for a service-connected disability. Thus, under prior law, although veterans "A" and "B" both are hospitalized for 25 days, veteran "A" would receive compensation at the 100-percent rate for 41 days whereas veteran "B" would receive it for only 30 days; and, although veterans "C" and "D" are both hospitalized for 33 days, under prior law, veteran "C" would be paid at the 100-percent rate for 62 days and veteran "D" for 37 days. The following table illustrates the differences in periods of

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payment, pursuant to 38 CFR 4.29 and 4.30, in these examples under current law, prior law and the Committee bill.

TABLE 7.—DIFFERENCE IN PERIODS OF PAYMENT UNDER CURRENT LAW, PRIOR LAW AND THE COMMITTEE BILL, PURSUANT TO 38 CFR 4.29 AND 4.30

	Days of hospitalization	Period of hospitalization	Period of payment		
			Current law	Prior law	Committee bill
Veteran "A"	25	May 20 to June 13	June 1 to June 30 (30 days).	May 20 to June 30 (42 days).	May 20 to June 13 (25 days).
Veteran "B"	25	May 2 to May 26	None	May 2 to May 31 (30 days).	May 2 to May 26 (25 days).
Veteran "C"	23	May 31 to July 2	June 1 to July 31 (61 days).	May 31 to July 31 (62 days).	May 31 to July 2 (33 days).
Veteran "D"	23	May 25 to June 26	June 1 to June 30 (30 days).	May 25 to June 30 (37 days).	May 25 to June 26 (33 days).

Committee bill provisions

The provisions of section 113 of the Committee bill would address these inequities by modifying both the beginning and ending dates for these increased awards of compensation so as to provide that, for hospitalization in excess of 21 days or for hospital treatments plus convalescence, payments are made only for the period of actual hospitalization under paragraph 29 or the period of actual hospitalization and actual convalescence under paragraph 30. If enacted, this would mean that, using the examples noted above, veteran "A" would be paid compensation at the 100-percent rate for the period May 20 through June 13, and veteran "B", for the period May 2 through May 26—both 25 days. And, veteran "C" would be paid compensation at the 100-percent rate from May 31 through July 2 and veteran "D", from May 25 through June 26—both for 33 days.

The Committee believes this approach is more equitable than either current or prior law. The basis on which these increased awards is premised is to compensate for foregone income due to a veteran either being hospitalized for an extended period of time for the treatment of a service-connected disability or needing a period of convalescence following treatment for such a disability. Thus, the most logical and reasonable approach to resolving the inequities that have occurred is to make the increased payment for the precise period that the veteran is actually in the hospital or convalescing. This would mean that veterans who were discharged early in any given month would not receive an inequitable windfall and, likewise, veterans who were admitted early in any given month would not be unjustifiably penalized.

The Committee is aware of concern that there exists a potential for overpayments of these temporary increases as a result of the amendments that would be made by the Committee bill, particularly in the cases of veterans who are hospitalized for relatively short periods of time in excess of 21 days. Thus, the Committee bill would mandate that the Administrator prescribe guidelines and take such other appropriate steps to prevent, to the maximum possible extent, overpayments to veterans in receipt of these benefits.

It should be noted, however, that since those receiving these temporary increases, with rare exception, continue to receive some service-connected disability compensation after the increase is discontinued, such overpayments as may occur may be collected by means of offset.

Continuation of Compensation Pending Review and Appeal

Section 114 of the Committee bill would require the continuous payment of disability compensation at an unreduced rate pending review and appeal of a determination to reduce or discontinue such compensation by reason of a change in service-connected or employability status, or in physical condition, in the case of any veteran whose disability has been rated as total for a period of at least 10 years as of the date such determination was made, who files a statement of disagreement with such determination and who requests such continuous payment. This provision is derived from S. 859, introduced by Senator Thurmond, and cosponsored by Senators Inouye, Cohen, Cochran, Cranston, Denton, Exon, Melcher, Grassley, Pryor, Nickles, Zorinsky, Specter and Hawkins, and is designed to avert the financial hardship which might be caused by a reduction or discontinuance of benefits upon which the veteran has depended for an extended period where the reduction or discontinuance is subsequently reversed.

Current law provides in section 3012(b)(6) of title 38 that a change in service-connected or employability status or change in physical condition resulting in a reduction or discontinuance of compensation shall become effective the last day of the month following 60 days from the date of notice to the payee of the reduction or discontinuance. While this period provides a veteran some protection from sudden changes in financial circumstances, it does not prevent subsequent hardship once the period from receipt of notice elapses. The Committee bill would add a new section 3117 to allow for the continuous payment of benefits at the unreduced level to a veteran who within 30 days after the notice of a determination to reduce or discontinue benefits files a notice of disagreement, accompanied by a request that the benefit not be reduced or terminated pending an appeal and final determination by the Board of Veterans Appeals. During the Committee's deliberation on this issue, it learned that since the appeal process can be lengthy, often lasting 18 to 24 months, this protection of the veteran against undue hardship is warranted.

The Committee is cognizant of the potential for overpayments which could arise under this proposal, but notes that most veterans who are reduced from 100-percent ratings held at least 10 years are not discontinued from the receipt of all compensation. Therefore, if overpayments do occur, the VA would in most cases be able to resort to collecting the overpayments from the lowered compensation payments still being made to the veteran.

The Committee wishes to emphasize its intention that this provision be implemented so as to ensure that any veteran having the option to request continuous payments is fully informed of the possible consequences, including the potential magnitude of the payback obligation if the veteran were to lose on appeal, and of the possibility (where applicable) that the veteran may be charged interest if that obligation were to become delinquent.

TITLE II—AMENDMENTS TO OTHER VETERANS' PROGRAMS

Grants for Establishment, Expansion or Improvement of State Veterans' Cemeteries Programs

Section 201 of the Committee bill would authorize the appropriation of such funds as are necessary in fiscal years 1985 through 1989 for matching-fund grants to States for establishing, expanding or improving State veterans' cemeteries.

The State cemetery grant program administered by the VA was instituted by Public Law 95–476, which was enacted in 1980, and authorized appropriations of $5 million for each of fiscal years 1980 through 1984.

The Committee finds it appropriate that State governments which wish to share with the Federal Government the obligation to meet the burial needs of the Nation's veterans be encouraged to do so. While the National Cemetery System, administered by the VA (except for Arlington National Cemetery and the cemetery at the United States Soldiers' and Airman's Home) since the enactment of Public Law 93–43, continues to be expanded in anticipation of increased need by World War II veterans, this State program is needed and desirable for at least another 5 years to help make it possible for greater numbers of veterans to be interred in veterans' cemeteries in the States in which they reside.

The VA has successfully publicized the State cemetery grant program—under which the VA provides funds for up to 50 percent of the land acquisition and improvement costs—in the years since its inception so that as of March 1983, 11 States had submitted 16 applications for Federal assistance, while an additional 24 States had expressed an interest in submitting applications.

The Committee bill does not set a maximum figure for the next five years of the program because the prospects for increasing levels of demand make it preferable to not impose a cap on any year's appropriation level at this point.

Repeal of 1989 Termination Date for Vietnam Era GI Bill

Under the current Vietnam-era GI Bill, no chapter 34 educational assistance benefits may be paid after December 31, 1989. This termination date, which was added to chapter 34 in 1976 by Public Law 94–502, was designed to permit those who entered the service prior to December 31, 1976—the general termination date for entry into the service for eligibility to current GI Bill benefits—to complete their initial enlistments and then have a 10-year period in which to use their GI Bill benefits.

The Committee is concerned by reports from persons now on active duty with eligibility for the GI Bill which suggest that they will leave the service primarily to utilize their GI Bill benefits prior to the 1989 termination date. According to testimony presented by the Department of Defense, there are presently over 800,000 servicemembers on active duty who entered the service prior to 1977 and who thus have eligibility for the current chapter 34 GI

Bill. Although many of these will reach retirement or separate prior to the 1989 termination date and will have an opportunity to use their GI Bill benefits, the Department of Defense estimates that 37,000 are expected to still be in the service in 1990. If these individuals were to leave the service in order to use their benefits, it would be very costly to recruit and train replacements for such members whose skill levels would be quite high. In addition, the replacement of senior personnel with more junior personnel reduces the effectiveness and readiness of the Armed Forces.

According to testimony presented by the Department of Defense, all the military departments believe that if the 1989 termination date is not extended, some servicemembers will elect to separate earlier than desired in order to use their earned benefits. The Department advises that while it is unable to document this assertion precisely, many servicemembers have expressed their concern about the delimiting date. Survey evidence indicates that 41 percent of third term personnel leaving the Navy report "losing GI Bill benefits" as one of the most important factors in their decision to leave the service.

The Committee concurs in the concern expressed by the Department of Defense and others and is sympathetic to the argument that a servicemember should not be penalized by losing earned benefits because of a longer term of service to the Nation. Thus, section 202 of the Committee bill would repeal the December 31, 1989, termination date and thereby allow all members of the service, as well as those who left service after December 31, 1979, who are entitled to GI Bill benefits generally, a full 10-year period from the date of their separation from service to complete their education under the current chapter 34 GI Bill.

In recognition of the fact that the major underlying purpose for repealing the termination date is based more on a retention incentive for the armed services than on a readajustment benefit for veterans, the Committee bill would provide for the Department of Defense to bear responsibility for the cost of all educational and training benefits paid after December 31, 1989. Thus, the Committee bill would require the Department of Defense to reimburse the VA for all such costs after that date.

Miscellaneous Education Program Amendments

Section 203 of the Committee bill would make a series of amendments to provisions of title 38 relating to educational assistance programs. First, under current law, an individual who is eligible for chapter 34 (Vietnam-era GI Bill) education benefits is barred from eligibility to participate in the chapter 32 (Post-Vietnam Era Educational Assistance (VEAP)) program. There are, however, certain individuals who served during the Vietnam era and who qualify for chapter 34 benefits based upon the provisions of section 1652(a)(3) of title 38. Under these provisions, an individual who served on active duty for training (under section 511(d) of title 10) for a period prior to January 1, 1977, and at some time subsequent to that active duty for training serves for a consecutive period of 1 year or more on active duty, he or she is eligible for chapter 34 benefits.

VA experience has shown that in some of these cases, individuals who served a period of 4 to 7 months of active duty for training prior to January 1, 1977, entered active duty after December 31, 1976, for a substantial period of time. Since they are eligible for chapter 34 benefits based on the period of time they served on active duty for training, they are not eligible to participate in VEAP.

The Committee bill in section 203 proposes to allow such individuals the opportunity either to elect to receive benefits under the chapter 34 program or to elect to participate in the chapter 32 program. Since in many cases the chapter 32 participation would be more beneficial to the individual, the Committee believes the individual should be given the opportunity to elect which benefit he or she wishes to receive.

Second, the Committee bill would amend section 1733(a) to limit the payment of educational assistance for pursuit of high school or equivalency training to spouses and surviving spouses eligible under chapter 35. The proposal would provide that such individuals be paid the amount of their tuition and fees, or the full-time institutional rate, whichever is less. Under current law, such individuals are eligible for benefits based upon institutional rates.

In Public Law 96-466, the Congress modified the payment provisions for veterans who are pursuing entitlement-free high school completion and equivalency certificate courses, but not for spouses and surviving spouses. This resulted in a disparity wherein veterans were limited to tuition and fees, or the institutional full-time rate, whichever is less, while spouses and surviving spouses could continue to be paid the institutional rates.

Over the years, Congress has generally provided, wherever feasible, for veterans and chapter 35 beneficiaries to be treated on an equal basis. The proposed change would eliminate this disparity between veterans and their beneficiaries and equalize the payment basis appropriately.

Third, the Committee bill would amend section 1781 to prohibit a veteran or eligible person entitled to education and training benefits under more than one program authorized under chapters 31, 32, 34, 35, or 36 of title 38, or eligible for benefits under the VA-administered educational test programs established under sections 901 and 903 of the Defense Authorization Act, 1981, or the VA-administered program established by the Hostage Relief Act of 1980, from receiving benefits concurrently under two programs for pursuit of the same program.

Under the Korean conflict GI Bill, provisions were included which barred concurrent payments under two or more education programs administered by the Veterans' Administration which would represent a duplication of benefits paid from the Federal Treasury. A similar bar was enacted in the current GI Bill program in 1966.

In the past 3 years, new programs have been enacted authorizing payment of educational benefits to individuals serving in the armed services or their dependents as well as to dependents of hostages held by foreign nations. Under current law, there is no provision to prevent an individual having eligibility, for example, under the chapter 35 program and under one the VA-administered programs of the Departments of State or Defense cited above, from being paid benefits concurrently under two programs for pursuit of the same program.

In order to avoid duplicate benefits, the Committee would add to title 38 a prohibition against such individuals being paid benefits concurrently.

Fourth, the Committee bill would amend section 1795 to provide that those individuals who have eligibility under section 901 or 903 of the Department of Defense Authorization Act, 1981, or the Hostage Relief Act of 1980 will be subject to the existing 48-month limitation that is imposed upon individuals with eligibility under two or more education programs administered by the VA.

Currently, section 1795 limits the aggregate period for which any person may receive assistance under two or more specified programs of educational assistance administered by the VA to a maximum of 48 months.

The Committee believes that, inasmuch as some of those eligible under one of these new programs administered by the VA may also have eligibility under another VA educational program, they should be subject to the 48-month limitation as well.

Substitution of Housing Loan Entitlement

The Servicemen's Readjustment Act of 1944 originally granted a veteran $2,000 of loan guaranty entitlement. No provision was made for a veteran to regain previously-used entitlement. The Housing Act of 1950, Public Law 81-475, amended the law to permit the Administrator to restore a veteran's home loan entitlement if the property was destroyed or "disposed of because of . . . compelling reasons devoid of fault on the part of the veteran . . .".

In 1974, Congress enacted Public Law 93-569, the Veterans Housing Act of 1974, which greatly expanded the circumstances under which previously-used home loan entitlement could be restored.

At present, section 1802(b) of title 38, United States Code, permits home loan entitlement to be restored when either of two sets of conditions are met. Under the first set of conditions, the property which secured the VA loan must have been disposed of by the veteran or destroyed by fire or natural hazard, and the VA loan must have been paid in full. If the VA has suffered a loss on such a loan, that loss must have been paid in full.

Under the second condition, a veteran's home entitlement may also be restored when another eligible veteran agrees to assume the VA loan and to substitute his or her VA home loan entitlement for that of the "original" veteran, (i.e., the veteran whose entitlement was used to obtain the guaranty). The law provides, however, that the new veteran must be "an immediate veteran-transferee", that is, a veteran purchasing the home directly from the original veteran.

In recent years, it has become more common for home buyers to assume existing mortgage loans. The fact that VA guaranteed loans are freely assumable is an important feature of this type of financing. The substitution of entitlement feature now in the law has enabled veterans to take advantage of the assumability feature of the VA loan as well as to benefit by being able to obtain a new home with VA financing. Loans are often assumed by two or more successive purchasers, and an increasing number of requests are being received by the VA for substitution of entitlement for that of the original veteran where the veteran assuming the loan is not an immediate transferee of the original veteran.

A significant number of these requests involve marital breakups. For example, a home purchased by a veteran and the veteran's spouse may be awarded to the spouse in a divorce. Some time after the divorce, the former spouse may wish to sell the property to a veteran on an assumption. Since the veteran purchaser is not the original veteran's immediate transferee, restoration of the first veteran's home loan entitlement is not legally possible.

The Committee sees no logical reason, in these or any other circumstances, to preclude substitution of entitlement merely because the assuming veteran is not an "immediate" transfree.

Section 204 of the Committee bill would, therefore, permit substitution of a veteran's housing loan entitlement when the veteran-transferee is not an immediate transfree.

Loan Guarantees for Manufactured Homes Permanently Affixed to Lots

The Committee bill in section 205 would provide for the Administrator to guarantee a loan for a manufactured home unit and lot on the same basis as a loan for a conventionally built home under section 1810 of title 38, provided the unit is or will be permanently affixed to the lot, and, as so affixed, the unit is regarded as real property under State law. The Committee notes that this would conform the VA's authority to be consistent with the recent administrative action that extended the Federal Housing Administration's (FHA) basic single-family mortgage insurance program to provide financing to purchasers of manufactured homes on developed lots.

Manufactured housing has become architecturally sophisticated to the point where, in many cases, the distinction between a manufactured house and the traditional site built home has diminished.

The popularity and success of the VA's existing manufactured home loan guaranty program is evidence of the growing acceptance of manufactured homes and the important part such homes have in satisfying the housing needs of veterans. Since the enactment of Public Law 91-506 in 1970, whereby the Congress authorized the Veterans' Administration to guarantee loans on manufactured homes and home and lot combinations, there have been over $1 billion worth of manufactured home loans guaranteed by the VA. In fact, the VA has assisted over 67,000 veterans in purchasing manufactured homes since the program began.

The Committee wishes to make clear that in providing for the Administrator to guarantee a mortgage loan for the purchase of a manufactured home permanently affixed to a lot under section 1810 of title 38, the Committee does not intend for the current authority of the Administrator to guarantee manufactured home loans under section 1819 of title 38 to be diminished in any way. The Committee recognizes that the status of a manufactured home as real versus personal property is not altogether clear in many States. The Committee bill, therefore, would permit the veteran and lender to have the option of seeking a guaranty under section 1810, as a real property mortgage, or under section 1819, as a traditional manufactured home loan. This would assure that the housing needs of veterans who choose to purchase manufactured homes can be well met.

Employment Emphasis Under Federal Contracts for Veterans with Serious Employment Handicaps

Section 206 of the Committee bill would expand the definition of "special disabled veteran" for purposes of certain employment and training initiatives under chapter 42 of title 38 to include a veteran with a service-connected disability rated at 10- or 20-percent disabling if that veteran has been determined to have a serious employment handicap for purposes of the VA's rehabilitation program for service-connected disabled veterans under chapter 31 of title 38.

Under existing law, the term "special disabled veteran" means those who are entitled to compensation for disabilities rated at 30-percent or more disabling and those who were discharged or released from service because of a service-connected disability. These veterans have the benefit of employment emphasis under Federal contracts pursuant to section 2012 of title 38. They are also veterans to whom the VA may, pursuant to section 2014(g) of title 38, give preference in employment in certain programs.

The underlying reason for providing this type of employment assistance to only these 30-percent-or-more disabled veterans has been that such veterans are considered most likely to have serious impediments to employment and are, therefore, most deserving of special benefits designed to assist them in securing work. It has long been the Committee's view that if an employer—either the Federal Government or a Federal contractor—could meet affirmative action obligations to service-connected disabled veterans by employing those who are less seriously disabled, many employers would do so; hence, the protections and benefits of this special category would be substantially diluted for those with more serious disabilities.

However, the Committee also recognizes that disabilities rated at 10- or 20-percent disabling may, in the cases of some veterans, cause serious employment difficulties.

In the recently enacted Emergency Veterans' Job Training Act of 1983 (Public Law 98–77), this Committee and, ultimately, the Congress, gave special consideration—in the form of a 3-month greater maximum limitation on the length of VA-assisted training—not only to veterans with disabilities rated 30-percent or more disabling, but also to those rated at 10- or 20-percent disabling who have been determined under the chapter 31 program to have a serious employment handicap.

All service-connected disabled veterans who apply for the chapter 31 program are evaluated and a determination is made as to whether individual veterans have serious employment handicaps. (In the event that the veteran is determined to have a serious employment handicap, VA counseling is provided and a written individualized vocational rehabilitation plan—including a statement of long-range rehabilitation goals and objectives and a statement of the specific services to be provided to the veteran in connection with participation in the program—is developed.) The Committee believes that any veteran who has been so evaluated and found to have such a handicap and to whom an individualized vocational rehabilitation plan is provided should be included in the protections and benefits afforded veterans who are considered to have serious employment problems.

Payments for Fiduciary Services

Section 207 of the Committee bill would provide the Administrator with limited authority to permit a VA-appointed fiduciary to deduct from a VA beneficiary's estate a modest commission for fiduciary services rendered.

The Administrator of Veterans' Affairs has broad discretion under section 3202 of title 38, United States Code, to supervise VA benefits paid to legally disabled (minor and incompetent) veterans and survivors. In cases involving commissions charged by court-appointed fiduciaries who manage VA funds, the Administrator honors lawful and reasonable requests for fiduciary commissions to be paid from beneficiaries' estates.

In a substantial number of cases (approximately 89,000 as of July 1983) where only VA benefits are involved, the Administrator has avoided the expense to the beneficiary of seeking a court-appointed fiduciary by resorting to the administrative appointment (under present section 3202(a)) of a so-called "Federal" fiduciary responsible to the VA rather than to the State court.

The policy of not permitting a deduction for commission by a Federal fiduciary developed with the early uses of this type of fiduciary, which almost always involved lawful dependents of the beneficiary or institutional payees. Where a dependent was appointed, such gratuitous services appeared to be justified because the fiduciary benefited financially as a dependent. When an institutional payee served, such services were considered built into the cost of care. But with expanded use of Federal fiduciaries, some are now selected from beyond familial and institutional relationships. Some of these, such as bookkeepers and accountants, must be compensated for services rendered if their services are to be obtained.

It is the Committee's understanding that the Administrator will proceed with caution to determine that such a commission is in the best interest of the beneficiary before authorizing its payment. In this regard, the Committee notes the VA's testimony at the Committee's June 8 hearing that the VA "plans to continue to ask persons to serve gratuitously as Federal fiduciaries whenever such appointments would serve the beneficiaries' best interest." The Committee endorses that approach and intends that it be implemented following the enactment of this provision. The Committee notes that, in no event, would the commission authorized for 1 year exceed 4 percent of the benefits paid by the Veterans' Administration to the beneficiary during the year, nor would a commission be authorized in the case of a fiduciary who receives any other form or remuneration in connection with rendering fiduciary services on behalf of the beneficiary.

Membership of Special Medical Advisory Group

The VA's Special Medical Advisory Group (SMAG) was established in 1946, to advise the Administrator and the Chief Medical Director "relative to the care and treatment of disabled veterans, and other matters pertinent to the Department of Medicine and Surgery." The original membership of SMAG was required to be "composed of members of the medical and allied scientific professions." Subsequent legislation expanded the scope of the Group's membership, so that section 4112(a) of title 38, United States Code, currently provides that SMAG is to be "composed of members of the medical, dental, podiatric, optometric, and allied scientific professions and a disabled veteran." (Dentistry was added by Public Law 89-795, section 109(a)(3); podiatry and optometry by Public Law 94-581, subsection 110(8); and a disabled veteran by Public Law 95-151, section 305.) Section 208 of the Committee bill—which is based on an Administration proposal—would add to the prescribed membership of SMAG "others considered by the Chief Medical Director to have experience pertinent to the missions of the Department of Medicine and Surgery."

In a June 22, 1983, letter transmitting the draft bill proposing to add this general category to the membership, the Administrator stated:

> The environment of American medicine as well as the VA health-care system has changed dramatically since SMAG was created. Since 1946, major and complex advances in medical techology and treatment modalities and knowledge of diseases have occurred. We have also experienced the advent of public health care financing, greater regulation of the health-care industry, major changes in national health planning directives and increased consumer involvement in health-care decisionmaking. The management of a major national health-care delivery system in this environment certainly must draw upon a wide variety of professional expertise. There is a similar need for professional diversity in the composition of a special medical advisory committee. It no longer suffices to limit such a committee's membership to health-care providers and members of "allied scientific professions." The language of section 4112(a) does not appear to provide for the breadth of membership needed to adequately consider the spectrum of issues that currently confront the VA's Department of Medicine and Surgery.

The Committee agrees that the management of a major health-care delivery system such as the VA's must today draw on a wide range of expertise, some of which may lie outside the health professions. The Committee believes that access to such expertise should be available to the Administrator and Chief Medical Director through the SMAG. However, the Committee, by the recommendation of this provision, specifically does not intend to deemphasize the role of any professional group currently listed in section 4112(a) of title 38. This provison is intended to ensure the flexibility for the VA to include in SMAG the breadth of membership appropriate to the issues which currently confront the VA's Department of Medicine and Surgery.

Pilot Project for Expediting Certain Medical Facility Construction Projects

Background

The provisions of section 209 are derived from the provisions of Amendment No. 1450 to S. 1388 as it was submitted for printing by Senator Cranston on June 29. That amendment was derived from the provisions of Amendment No. 1298 as submitted for printing by Senator Cranston on May 25 and cosponsored by Senators Byrd, Randolph, Matsunaga, DeConcini, Sasser and Exon.

Section 5004(a)(1) of title 38, United States Code, provides that appropriations may not be made for a VA medical facility construction or alteration project involving total expenditures of $2 million or more—a so-called major project—unless the Committees on Veterans' Affairs of the House of Representatives and the Senate have adopted resolutions approving the project. As defined in section 5001 of title 38, the terms "construct" and "alter" include all phases of a project completed after what is known as "advance planning", which includes the development of project requirements and preliminary plans for the medical facility. The terms "construct" and "alter" specifically include the preparation of "working drawings" for the project.

Similarly, the appropriations legislation for the VA's major construction projects account each year specifies that, "except for advance planning of projects funded through the advance planning fund", the funds appropriated to that account may not be used "for any project that has not been considered and approved by the Congress in the budgetary process. Approval in this context is documented in Appropriations Committees' reports and, in cases of disagreement, the joint explanatory statement accompanying a conference report on the appropriations bill.

The practical result of the manner in which these approval requirements relate to the Presidential budget and congressional appropriations processes is that the VA routinely encounters a delay of more than a year between the time that preliminary plans have been completed for a project and the time that the development of working drawings may be initiated. In order to provide the Congress with the opportunity to review a project for possible approval, preliminary plans for a project must be completed and submitted to the Office of Management and Budget in the late summer or early fall of the year prior to the year in which the budget request is to be submitted for a project. The preliminary plans are accomplished with funds provided through the VA's advance planning fund, but funds for the development of working drawings must await congressional approval. For example, a project for which preliminary plans were completed in February of this year will be submitted to OMB this fall, and, if approved in the executive branch budget process, appropriations for it will be requested in the President's budget for fiscal year 1985, which begins October 1, 1984. This means that, during the period from February 1983 to October 1984, no further work can be done on the project. Consequently, the cost of the project is likely to be increased as a result of the additional escalation of construction costs; a significant risk of changes in the VA Department of Medicine and Surgery requirements is created—a risk that has the potential for further delay and increased costs; valuable expertise is often lost as the result of the departure—from the VA or the architecture and engineering firm that drew the plans—of individuals who have become familiar with the project; and the services to be made available to veterans are substantially delayed.

General Accounting Office recommendation

On December 30, 1981, the General Accounting Office issued a report entitled "Opportunity To Reduce the Cost of Building VA Medical Centers" (HRD-82-28). In that report, the GAO noted:

> The time it takes to complete medical facility construction projects could be reduced by up to 15 months by . . . allow(ing) VA to contract for final designs while the Congress reviews the projects. This could reduce overall project costs by minimizing the effects of inflation . . .

Further explaining its findings, the GAO stated:

> If final design work can be performed during the congressional approval process instead of after it, VA should be able to begin construction earlier and pay a lower price by avoiding some effects of inflation.
>
> The amount of time VA can actually save will vary by project and will depend on the project's complexity. The more complex a project is, the longer it will take to prepare the working drawings and specifications necessary to bid the construction work. In the 10 projects we reviewed, final design ranged from 9.5 to 32.5 months. . . . The congressional review process usually takes 15 months—from the time a project is included in VA's internal budget process in June or July, through VA's submission of its budget to the Office of Management and Budget in September and to the Congress in January, until the funds become available at the beginning of the fiscal year in October. By performing the final design work during this process, VA can reduce project time up to 15 months. . . .
>
> Extending the Advanced Planning Fund (which, as noted above, may not be used for work on a project after the preliminary plans stage of that project) should not affect the benefits sought by Public Law 96-22 of congressional review of projects at a time when VA's cost estimates should be reasonably firm. VA would submit projects if the Fund were extended at the same time it does now—after preliminary design work has been completed.
>
> Such an action would require larger appropriations to the Advanced Planning Fund than are currently made, in

> amounts depending on the number of projects VA intends to construct. These additional . . . appropriations would, however, eliminate the need for the Congress to include funds for final design in appropriations for the construction of approved projects.

The GAO concluded that the Congress should consider allowing the VA to use the advance planning fund for final design work, noting the benefits of "potentially lower costs and earlier completion" of projects. It stressed, however, that "the degree of confidence" the Congress has in the VA's construction process "directly affects the degree of risk inherent in preparing final designs before final congressional approval is obtained."

Committee bill provisions

The provisions of section 209 of the Committee bill are designed to enable the VA—on a 1-year trial basis—to avoid the long delays between the completion of preliminary plans and the initiation of the final design and working drawings for certain VA medical facility major construction projects. It would achieve this purpose by permitting the agency to use up to $25 million in its major construction account working reserve to undertake working drawings for those projects in fiscal year 1984 despite the fact that they have not yet been approved in the appropriations process or by the Veterans' Affairs Committees.

The Committee bill is fully consistent with the recommendations made by the GAO in 1981, but reflects an approach that is more cautious than a permanent extension of the advanced planning fund. The effect of section 209 would be to permit the undertaking of working drawings, concurrent with the congressional review and approval process, on certain construction and alteration projects so that such projects could be expedited and that construction contracts for those approved by the Congress could be advertised and awarded as early in fiscal year 1985 as the completion of the working drawings would allow—rather than in fiscal year 1986 or 1987.

For this purpose, the Committee bill would permit the VA to use up to $25 million for such working drawings out of its so-called "major working reserve". This reserve consists of funds not expended on some projects because of lower than anticipated costs. However, from time to time, a substantial amount of money can accumulate in the working reserve and the VA uses the reserve where needed to augment other projects or to reduce budget requests. For fiscal year 1984, the VA projected in its budget documents an unobligated end-of-year balance in the reserve of $94 million. However, the VA anticipates requesting the reprograming of $79 million of that amount for other projects in fiscal year 1984, leaving an anticipated balance of $15 million. More recent estimates suggest that additional anticipated receipts to the reserve in fiscal year 1984 will increase it well in excess of $25 million.

The Committee bill is designed to limit the risks involved in testing this approach over the 1-year trial basis in a number of ways.

First, the total amount that could be expended on any one set of working drawings would be limited to $2.5 million. Since the VA estimates that working drawings cost approximatley 6 percent of the entire cost of a project, the effect of this restriction would be that the largest project that might benefit from the enactment of this amendment would be estimated to cost in the range of $42 million. Thus, working drawings for major replacement and modernization projects—those most likely to be subject to controversy—could not be carried out under this new authority.

Second, in lieu of congressional pre-approval of these projects, the VA would be required to provide advance notice of proceeding to working drawings on a project to the House and Senate Committees on Veterans' Affairs and on Appropriations. That notice would be required to include the cost of the working drawings and an estimated range of the total cost of the project.

Third, the proposed authority to use the working reserve for working drawings would exclude working drawings for the replacement or new construction of a complete health-care facility. The Committee believes that a viable experiment can be conducted without giving the VA authority at this point to proceed—without formal congressional approval—further down the road to construction of complete health-care facility projects.

Fourth, before exercising the authority granted by the Committee bill to obligate for working drawings for a project any funds from the major working reserve, the Administrator would be required to determine that the amount involved will not be needed for contingencies arising in connection with other VA construction projects.

The Committee believes that this provision of the Committee bill will help the Congress determine whether it wishes to provide a more permanent authority along these lines consistent with the GAO's recommendation or perhaps to extend the experiment. It is the Committee's intention to study carefully those projects selected for working drawings in fiscal year 1984 and to follow their progression through the construction process.

Based on an examination of the VA's current construction activities, there are some 50 projects on which working drawings could be undertaken prior to October 1, 1984, under this legislation and which could thus be expedited. The Committee understands that not each of those projects would be benefited by the enactment of this provision, nor is it suggesting that any particular project be funded for working drawings. Current schedules are subject to change, and not each eligible project may be ready to proceed to working drawings nor would there be sufficient funds to undertake all of them.

The Committee stresses that this provision would result in no additional expenditures on working drawings; it would simply advance to fiscal year 1984 expenditures for working drawings that would almost certainly otherwise be expended in fiscal year 1985 (and, perhaps, fiscal year 1986). In addition, over the longer run—since projects that are expedited will not suffer the usual 12-month-or-more delay—savings might actually result from the enactment of this provision.

Springfield Confederate Cemetery

Section 210 of the Committee bill would provide that land comprising the present Springfield (Missouri) Confederate Cemetery shall be considered part of the Springfield National Cemetery and would remove a restriction on the use of that land which permits burial of only Confederate veterans. This section of the bill derives from S. 1470, introduced on June 14, 1983, by Senator Danforth with the cosponsorship of Senator Eagleton.

By the Act of March 3, 1911 (36 Stat. 1077, chapter 211), "An Act Providing for the taking over by the United States Government of the confederate cemetery at Springfield, Missouri," the Federal Government accepted the offer of the Confederate Association of Missouri to transfer the Springfield Confederate Cemetery to the United States. That measure and the deed of conveyance, dated June 21, 1911, contain certain restrictive terms, among them the provision that "the United States Government shall see that it [the cemetery] is never used for any other purpose than a cemetery for the graves of men who were in the military or naval service of the Confederate States of Amercia." The 1911 law required the Secretary of War to put the Springfield Confederate Cemetery in the charge of the keeper of the National Cemetery at Springfield, Mo. Public Law 85-42, enacted May 31, 1957, provided that the restriction in the 1911 law permitting the burial of only Confederate veterans would apply only to "the portion of that cemetery inside the walled enclosure where those graves [of men who were in the military or naval service of the Confederate States of America] are located." It further specified: "The portion of that cemetery outside the walled enclosure shall be used as part of the Springfield National Cemetery." Earlier, in 1948, the Association had released the restrictions in the 1911 deed with respect to the portion of the cemetery outside the enclosure.

Subsequently, the National Cemetery Act of 1973 (Public Law 93-43) transferred jurisdiction over all cemeteries in the national system (except Arlington National Cemetery and the cemetery at the United States Soldiers' and Airmen's Home) from the Department of the Army to the VA, which currently maintains and administers the Confederate Cemetery.

The present Confederate Cemetery has space for 463 gravesites, which, if made available in the near future, would provide a very timely increase in the number of available gravesites at the Springfield National Cemetery. In the absence of the availability of the Confederate Cemetery sites, the present sites at the national cemetery are predicted to be exhausted by about March 1984, and land donated by the City of Springfield will not be ready for burials until about July of that year. Thus, the 463 Confederate Cemetery sites could be used to help ensure uninterrupted access to national cemetery burial for eligible veterans and dependents in the area served by the Springfield National Cemetery.

There is no known opposition to the removal of the present use restriction in the 1911 law precluding the burial of veterans of our Nation's Armed Forces on the premises of the Confederate Cemetery or to designating it as part of the Springfield National Cemetery. The proposal is supported by all members of the Missouri delegation, in both the House of Representatives and the Senate, veterans' organizations in Missouri, the Missouri Confederate Cemetery Association, the Missouri Division of the United Daughters of the Confederacy and the VA.

It is the Committee's understanding that, upon the enactment of the Committee bill provision, the Confederate Cemetery Association (the successor in interest of the Confederate Association of Missouri) and the VA plan to enter into an agreement totally releasing the burial restriction in the 1911 deed.

It is also the Committee's understanding and intention that the VA will honor the preference of any eligible veteran's family that, instead of being interred in a burial site located on land comprising the present Confederate Cemetery, the veteran be interred in a burial site elsewhere within the Springfield National Cemetery.

COST ESTIMATE

In compliance with paragraph 11(a)(1) of rule XXVI of the Standing Rules of the Senate, the Committee, based on information supplied by the Congressional Budget Office, estimates that the costs resulting from the enactment of the Committee bill during the first 5 years following enactment would be $175.5 million in budget authority and $145.3 million in outlays in fiscal year 1984; $342.2 million in budget authority and $340.7 million in outlays for fiscal year 1985; $336.7 million in budget authority and $337.2 million in outlays for fiscal year 1986; $331 million in budget authority and $331.5 million in outlays for fiscal year 1987; and $323.2 million in budget authority and $323.9 million in outlays for 1988. A detailed breakdown of the costs, as estimated by CBO, over the 5-year period follows:

CONGRESSIONAL BUDGET OFFICE

COST ESTIMATE

September 22, 1983

1. BILL NUMBER: S. 1388

2. BILL TITLE:

   Veterans' Compensation and Program Improvements Amendments of 1983

3. BILL STATUS:

   As ordered reported by the Senate Committee on Veterans' Affairs, July 21, 1983.

4. BILL PURPOSE:

   To increase the rates of disability compensation and dependency and indemnity compensation (DIC), and for other purposes.

5. ESTIMATED COST TO THE FEDERAL GOVERNMENT:

(by fiscal year, in millions of dollars)

	1984	1985	1986	1987	1988
Required Budget Authority	175.5	345.1	339.8	332.9	324.0
Authorization Level	0.0	-21.9	3.3	3.4	3.5
Estimated Outlays	170.3	357.2	367.3	360.6	278.1

The cost of this bill would fall in budget function 700. This bill would result in additional future federal liabilities through an extension of existing entitlements and would require subsequent appropriation action to provide the necessary budget authority. The figures shown as "Required Budget Authority" represent an estimate of the additional budget authority needed to cover the outlays estimated to result from enactment of S. 1388.

Basis for Estimate:

The following section-by-section cost analysis addresses only those sections of S. 1388 that would be expected to have a significant budgetary impact.

Title I

Sections 101-106: These sections would increase the monthly rates of disability compensation and DIC by 3.5 percent. The new rates would take effect on April 1, 1984.

(by fiscal year, in millions of dollars)

	1984	1985	1986	1987	1988
Required Budget Authority	175.5	342.2	336.7	331.0	323.2
Estimated Outlays	145.3	340.7	337.2	331.5	323.9

The cost of these sections was estimated by multiplying the average cost in each year for all disability compensation cases and for all DIC cases by 3.5 percent. The resulting average increases in costs per year were then multiplied by the estimated number of cases in each program each year to calculate the annual cost. Future average cost and caseload levels are projected according to historical trends for veterans and survivors by period of service. It was determined from the historical monthly spending pattern that approximately 49.9 percent of fiscal year 1984 costs would occur between April 1, 1984 and the end of the fiscal year under current law. This percentage was then applied to the 1984 cost to reflect the April 1 effective date.

Section 113: This section would modify the beginning and ending dates of a temporary increase in disability compensation payments made under 38 Code of Federal Regulations 4.29 and 4.30 in connection with hospitalization for the treatment of a service-connected disability. The amendment would provide that the temporary increase in benefit payments be granted only for the period of actual hospitalization and convalescence.

This amendment would make both the starting date and the ending date of such increases earlier than they would be under current law. If the distribution of hospital admissions, discharges, and terminations of recuperation periods are more or less evenly distributed throughout each month, the net impact of this provision should be negligible. Sources within the Veterans Administration (VA) maintain that they have no evidence of any imbalance in the distribution of admissions, discharges, and recuperations throughout the course of a month. It is estimated, therefore, that this section would not have a significant impact on the budget.

Section 114: This section would provide, in certain specific cases, for the continued payment of disability compensation at an unreduced rate pending the review and appeal of a determination to reduce or discontinue such compensation. Should the original determination be upheld, the veteran would be indebted to the United States for the amount of compensation paid over and above the amount to which the veteran was entitled under the reduction or discontinuance. This provision would be effective for determinations that are rendered after March 31, 1984.

(by fiscal year, in millions of dollars)

	1984	1985	1986	1987	1988
Required Budget Authority	*	2.9	3.1	1.9	0.8
Estimated Outlays	*	2.9	3.1	1.9	0.8

* Less than $500,000.

In the preparation of the above estimate, the following assumptions were made:

- The majority of cases affected by this provision would be those involving reductions or discontinuances of unemployability ratings, based on information from the Compensation and Pension Service of the VA.
- Approximately 5,500 determinations to reduce or discontinue unemployability or other ratings would be affected a year, based on historical data and information from VA staff.
- In only about 10 percent of the affected cases would the veteran choose to appeal the initial determination, based on the historical experience of the Board of Veterans Appeals.
- In 70 percent of the cases appealed, the veteran would request that benefits continue to be paid at the unreduced rate.
- Approximately 90 percent of the appeals would be denied, according to the historical experience of the Board of Veterans Appeals. Thus, it is estimated that overpayments of compensation benefits would occur in approximately 350 cases per year.
- The average reduction in rating would be from 100 percent to 70 percent, based on historical data regarding reductions in unemployability ratings. This would result in an average reduction in monthly benefits of $676.
- According to the Board of Veterans Appeals, the average time required for an appellate review is 469 days.
- In order to avoid financial hardship, the veteran would be allowed twice as many months to repay the overpayment as the number of months in which the veteran was overpaid.
- The VA contends that very few of the overpayments created under this provision would be waived, because all veterans requesting continued payment at the unreduced rate would be notified in writing of the repayment requirement. Of the overpayments created, 90 percent were assumed to be collected.

Title II

Section 201: This section would authorize for fiscal years 1985-1989 the appropriation of such sums as may be necessary for grants to states for establishing or improving state veterans' cemeteries.

(by fiscal year, in millions of dollars)

	1984	1985	1986	1987	1988
Estimated Authorization Level	0.0	3.1	3.3	3.4	3.5
Estimated Outlays	0.0	0.6	2.0	3.2	3.4

The above estimate assumes that the level appropriated for this activity for fiscal year 1984, as increased by anticipated inflation, would be appropriated in fiscal years 1985-1988. It was further assumed that the current appropriation language allowing the funds to remain available for three years would be continued. The outlay estimates reflect historical spending patterns.

Section 202: This section would repeal the provision of current law that prohibits the payment of educational assistance under chapters 34 or 36 (Title 38, United States Code) after December 31, 1989. The section would provide instead that the Secretary of Defense reimburse the Administrator of Veterans Affairs for all amounts of such educational assistance provided after December 31, 1989.

It is estimated that this provision would not have a significant budgetary impact until fiscal year 1990. Although there could be some reduction in program participation prior to that time resulting from the repeal of the termination date, this reduction should not be large enough to significantly reduce program costs.

Section 209: This section would authorize the VA to reprogram up to $25 million in funds previously appropriated for certain hospital construction projects but no longer required, in order to fund in fiscal year 1984 the development of working plans for certain future projects. The stated purpose of the provision is to enable construction for the projects involved to begin in fiscal year 1985.

(by fiscal year, in millions of dollars)

	1984	1985	1986	1987	1988
Estimated Authorization Level	0.0	-25.0	0.0	0.0	0.0
Estimated Outlays	25.0	13.0	25.0	24.0	-50.0

The normal procedures for the approval and funding of major construction projects is as follows:

- The VA prepares preliminary plans for a project utilizing money from the Advance Planning Fund.
- The preliminary plans are then submitted to the House and Senate Veterans' Affairs Committees for approval.
- Once the project has been approved, the VA includes both the cost of the working plans and the full construction cost in their next appropriation request.

This provision would authorize the VA to develop working plans for certain smaller projects from unobligated funds in the Construction, Major Projects account prior to approval of the preliminary plans by the Veterans' Affairs Committees. Actual construction on such projects could not be initiated until the project is approved and the construction funds are appropriated. The construction schedule would be accelerated, however, by the advance preparation of the working plans.

In general, the cost of designing the working plans for a major construction project represents roughly 10 percent of the project's total cost. Thus, this provision, by authorizing the early obligation of design funds, would accelerate the timetable of approximately $250 million worth of construction projects.

The estimate above assumes that the VA has sufficient uncommitted funds to take full advantage of this authority. It further assumes that funding for both the design and construction costs of the projects to be accelerated would otherwise be requested and appropriated for fiscal year 1985. The estimate of the authorization level, therefore, only reflects the $25 million decrease in the funds that would be requested for fiscal year 1985, but the outlay estimate shows the net effects of accelerating the five-year spendout pattern for the entire $250 million in total project costs.

6. ESTIMATED COST TO STATE AND LOCAL GOVERNMENTS:

Section 201 of this bill would extend for five years the VA program that provides grants to states for establishing, expanding, or improving state-owned veterans' cemeteries. Participation by a state in this program is wholly voluntary; but, if a state chooses to participate, the state must contribute at least 50 percent of the total cost of the cemetery project. If, however, state-owned land is dedicated to the cemetery, the value of that land may be counted toward up to 50 percent of the state's contribution. Thus, a state's cash outlay requirement could be as low as 25 percent of the total cost of a cemetery project.

Funds are currently committed by the VA for grants ranging in amounts from $60,000 to $600,000, with an average grant amount of about $250,000. Although data are not available on the actual amount of state contributions toward these grants, it would be expected that the state contribution for a grant of $250,000 could range from $83,250 to $300,000. The CBO estimate of this provision projects total federal grant outlays through 1988 of $9.2 million. State contributions toward this level of grants would be expected to range between $3.1 and $11.0 million.

7. ESTIMATE COMPARISON: None.
8. PREVIOUS CBO ESTIMATE: None.
9. ESTIMATE PREPARED BY: K.W. Shepherd (226-2820)
10. ESTIMATE APPROVED BY:

for James L. Blum
Assistant Director
for Budget Analysis

REGULATORY IMPACT STATEMENT

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee on Veterans' Affairs has mad an evaluation of the regulatory impact which would be incurred in carrying out the Committee bill. The results of that evaluation are described below.

The Committee bill has three titles: I—Disability compensation and dependency and indemnity compensation; II—Amendments to other veterans' programs; III—Effective dates.

A. *Estimates of the numbers of individuals and businesses who would be regulated, and a determination of the groups and classes of such individuals and businesses.*

Title I.—Title I, which provides for rate increases and improvements in the service-connected disability compensation and dependency and indemnity compensation programs, would not result in the regulation of any individuals or businesses.

Title II.—Title II, which would make a series of improvements and modifications in numerous other veterans' programs, would not result in the regulation of any individuals or businesses with the exception of section 206, which would entail a minor expansion in the regulation of Federal contractors having contracts above $10,000. This would result from the expansion of their affirmative-action responsibilities with respect to service-connected disabled veterans to include veterans with service-connected disabilities rated 10- or 20-percent disabling who have been determined to have serious employment handicaps. It is not possible to estimate with any accuracy the number of individuals and businesses that would be affected.

B. *Determination of the economic impact of such regulations on individuals, consumers and businesses affected:* The economic cost to businesses and individuals where there is regulatory impact from the provisions of the Committee bill should be minimal since Federal contractors already have an established process with which to comply and to which is being added a relatively small requirement.

C. *Determination of the impact on the personal privacy of the individual affected:* The enactment of the Committee bill would not have any increased impact on the personal privacy of any individuals.

D. *Determination of the amount of additional paperwork that will result from regulations to be promulgated under the bill:* No regulation that would result in any significant amount of additional paperwork is expected to be promulgated under the provisions of the Committee bill.

SECTION-BY-SECTION ANALYSIS OF S. 1388 AS REPORTED

Section 1

Subsection (a) of section 1 would provide that this Act may be cited as the "Veterans' Compensation and Program Improvements Amendments of 1983".

Subsection (b) of section 1 would provide that, except as otherwise specifically provided, whenever in this Act, an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—DISABILITY COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION

Part A—Rate Increases

Would provide 3.5-percent increases, effective April 1, 1984, in the rates of disability compensation paid to service-connected disabled veterans and in the rates of dependency and indemnity compensation paid to the spouses and children of those who died as a result of service-connected disabilities.

Section 101

Would amend present section 314 of title 38, United States Code, relating to the rates of service-connected disability compensation.

Subsection (a) of section 101 would amend subsections (a) through (j) of present section 314 to increase by 3.5 percent the basic monthly rates of compensation paid to veterans with disabilities rated from 10 to 100 percent. In the computation of these increases, all amounts of $0.50 or more were rounded up to the next higher dollar and amounts less than $0.50 were rounded down. Currently, a veteran with a 10-percent disability receives $62 monthly, and a veteran with a disability rated as total—100 percent—receives $1,213 monthly. Those rates would be increased to $64 and $1,255, respectively, by the Committee bill, and the rates for disabilities rated 20 to 90 percent would be increased by the same percentage.

The Committee bill would also increase by 3.5 percent (using the same rounding method)—

The higher monthly rates of compensation authorized under subsections (l) through (o) and (s) of section 314 for veterans with certain combinations of severe disabilities;

The maximum amount payable monthly to a veteran under subsection (p), which authorizes the Administrator to pay the next higher rate or intermediate rate to a veteran whose disabilities exceed the requirements for any of the rates prescribed in section 314, or who is both blind and deaf;

The rates payable monthly under subsection (r) to veterans who are in need of aid and attendance;

The rate payable under subsection (s) to veterans who are housebound;

The additional amount payable under subsection (t) to certain veterans who have suffered the service-connected loss or loss of use of an extremity and the non-service-connected loss or loss of use of the other, paired extremity; and

The limitations on the total amount payable monthly to a veteran entitled to compensation under subsection (k) who is also entitled to compensation under another subsection of present section 314.

Subsection (b) of section 101 would authorize the Administrator of Veterans' Affairs to increase by 3.5 percent the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85-857 who do not receive compensation under chapter 11 of title 38. Public Law 85-857 generally codified in title 38 of the United States Code the laws relating to veterans' benefits; section 10 of that law provided that any individual who was receiving benefits as a veteran on December 31, 1958, under public laws administered by the VA but not so codified, was to continue to receive benefits at the rates payable under such public laws or under corresponding provisions of title 38, whichever is the greater, as long as he or she remains eligible.

Section 102

Would amend present section 315 of title 38, relating to additional compensation payable monthly to veterans with service-connected disabilities rated as 30 percent or more disabling who have spouses, children or dependent parents, to increase those allowances by 3.5 percent.

Clauses (1) through (6) of section 102 would amend paragraph (1) of present section 315, relating to additional compensation—"dependents' allowances"—payable monthly to totally disabled veterans who have dependents, to increase those allowances by 3.5 percent, using the rounding method described above in the analysis of section 101(a) of the Committee bill. Under existing law, for a veteran so disabled who has a spouse, the amount of additional compensation paid is $74; if the veteran has one child, the amount paid is $50 and for each additional child, $40. Under the Committee bill, these amounts would be increased to $77, $52 and $41, respectively.

The Committee bill would also increase by 3.5 percent (using the same rounding method) the amount of the dependents' allowance payable monthly to a totally disabled veteran who has a dependent parent or parents from $60 (for each such parent) to $62; to such a veteran who has a severely disabled spouse, from $134 to $139; and to such a veteran who has a child age 18 or older who is pursuing a course of education at an approved educational institution, from $112 to $116.

Under paragraph (2) of present section 315, the additional compensation payable to veterans rated from 30- to 90-percent disabled is prorated, so that, for example, a veteran rated at 30 percent would receive 30 percent of the amount specified in paragraph (1) of that section. Paragraph (2) of present section 315 also requires that all amounts payable thereunder that are not multiples of $1 be rounded down.

Section 103

Would amend present section 362 of title 38, relating to the clothing allowance payable annually to a veteran receiving compensation whose disability requires the use of a prosthetic or orthopedic appliance or appliances, including a wheelchair, that tends to wear out or tear the veteran's clothing, to increase that allowance by 3.5 percent, from $327 in existing law to $338.

Section 104

Would amend present section 411 of title 38, relating to the rates of dependency and indemnity compensation (DIC) for the surviving spouses of veterans whose deaths are service connected.

Subsection (a) of section 104 would amend subsection (a) of present section 411 to increase by 3.5 percent, using the rounding method described above in the analysis of section 101(a) of the Committee bill, the DIC benefit payable monthly to the surviving spouse of a veteran who has died as a result of a service-connected disability. Under current law, a surviving spouse's DIC is paid according to the pay grade—service rank—of the deceased veteran; the amounts range from $445 per month for the surviving spouse of a veteran who had attained the grade of E–1, to $1,139 for the surviving spouse of a veteran who had attained the grade O–10. Those rates would be increased to $461 and $1,179, respectively; proportionate increases would be provided in the rates for the intermediate pay grades and in the rates payable to the surviving spouses of veterans who had served in the positions specified in footnotes 1 and 2 to the table of grades and rates in existing section 411. The enactment of these increases would automatically result in identical increases in the benefits payable at DIC rates under section 410(b) of title 38 to surviving spouses of certain veterans compensated at the 100-percent rate whose deaths were not service connected. Also, by virtue of section 156(e)(1)(A) of Public Law 97–377 (a fiscal year 1983 continuing appropriations measure enacted on December 21, 1982), the enactment of these DIC increases woud automatically result in increases, also effective April 1, 1984, in benefits paid—in lieu of certain social security survivors' benefits (the so-called "mother's benefit") terminated by section 2205 of the Omnibus Reconciliation Act of 1981 (Public Law 97–35)—to certain surviving spouses of those who died on active duty or from a service-connected disability who have surviving children in their care. Pursuant to subsection (e) of this section of the Committee bill, the increase in the replacement benefits will be 3.5 percent. The benefits, administered by the Veterans' Administration but paid for by the Department of Defense, were largely "restored" by section 157(a) of Public Law 97-377.

Subsection (e) of section 104 would provide that, for purposes of section 156(e)(1)(A) of Public Law 97-377 (discussed above), the overall average of the percentages by which each of the present section 411 rates of DIC is increased shall be considered to be 3.5 percent. That provision of Public Law 97-377 provides that increases in the benefits restored by section 156(a) of that law are to be effective on the same date as the section 411 DIC increases and "by a percentage that is equal to the overall average of" those increases (rounded to the nearest tenth of a percent). Rather than allow the increases in the restored benefits to be set at that average—which, due to the effects of rounding on the average increase, could result in the rate of the increase being slightly higher or lower than the percentage used to compute the DIC increase—the Committee believes it would be preferable to provide by law for applying the same percentage increase to the benefit rates under both programs.

Subsection (b) of section 104 would amend subsection (b) of present section 411 to increase by 3.5 percent, from $51 to $53, the additional amount—dependents' allowances—payable for each child under the age of 18 to a surviving spouse receiving DIC.

Subsection (c) of section 104 would amend subsection (c) of present section 411 to increase by 3.5 percent, from $134 to $139, the additional amount of DIC payable monthly to a surviving spouse who is a patient in a nursing home or who is helpless or blind or so nearly helpless or blind as to be in need of regular aid and attendance.

Subsection (d) of section 104 would amend subsection (d) of present section 411 to increase by 3.5 percent, from $66 to $68, the DIC payable monthly to a surviving spouse who is so disabled as to be permanently housebound.

Section 105

Would amend present section 413 of title 38, relating to DIC for surviving children of veterans whose deaths were service connected, to provide a 3.5-percent increase, using the rounding method described above in the analysis of section 101(a) of the Committee bill, in the monthly rates of DIC payable to the veteran's children where no surviving spouse is entitled. The current rates of $225 for one child, $323 for two children and $417 for three children, plus $84 for each additional child, would be increased to $233, $334, $432 and $87, respectively. Benefits payable at DIC rates under present section 410(b) of title 38 to the surviving children of certain veterans compensated at the 100-percent rate whose deaths were not service connected would also be automatically increased as a result of this increase in section 413.

Section 106

Would amend present section 414 of title 38, relating to supplemental DIC for certain surviving children.

Clause (1) of section 106 would amend subsection (a) of present section 414 to provide a 3.5-percent increase, using the rounding method described above in the analysis of section 101(a) of the Committee bill, from $134 to $143, in the additional allowance payable monthly to a child eligible for DIC who has attained the age of 18 and who became permanently incapable of self-support before reaching age 18.

Clause (2) of section 106 would amend subsection (b) of present section 414 to provide a 3.5-percent increase, from $225 to $233, in the DIC payable monthly, concurrently with the payment of DIC to a surviving spouse, to a surviving child who has attained the age of 18 and who became permanently incapable of self-support before reaching age 18.

Clause (3) of section 106 would amend subsection (c) of present section 414 to provide a 3.5-percent increase, from $114 to $118, in the additional DIC payable monthly, concurrently with the payment of DIC to a surviving spouse, to a surviving child pursuing a course of education approved under present section 104 of title 38.

Section 107

Would express the sense of the Congress that any increases in the rates of disability compensation and DIC that are enacted to take effect in fiscal year 1985 and subsequent fiscal years shall take effect on December 1 of the fiscal year involved and that the budgets for fiscal year 1985 and such subsequent fiscal years should include amounts necessary for the December 1 effective date. Under the Congressional policy so expressed, the effective date of future compensation/DIC increases would coincide with the effective dates of increases in Social Security Act-indexed programs (such as veterans' pension under chapter 15 of title 38, social security old age, survivors, and disability benefits, and supplemental security income payments) recently established by section 111 of the Social Security Amendments Act of 1983 (Public Law 98-21) as December 1.

Part A—Costs: Enactment of the provisions of Part A is estimated to cost $175.5 million in budget authority and $145.3 million in outlays in fiscal year 1984.

Part B—Compensation Program Amendments

Would amend various provisions of title 38, United States Code, to make improvements and adjustments in the service-connected disability compensation program.

Section 111

Would amend present section 312(b) of title 38, which provides that the diseases listed therein are, in the cases of former prisoners of war who were interned for not less than 30 days, presumed to have been incurred or aggravated by active-duty service, to add, effective October 1, 1983, "dysthymic disorder (or depressive neurosis)" to the list of those diseases.

Section 111—Costs: Enactment of the provisions of section 111 is estimated to entail no significant costs.

Section 112

Would amend present section 314 of title 38, relating to rates of service-connected disability compensation payable to certain severely disabled veterans, to increase, effective October 1, 1983, the rates of compensation for certain blinded veterans.

Subsection (a) of section 112 would amend subsection (o) of present section 314 to reduce, from 60 percent disabling to 40 percent disabling, the rate of disability resulting from bilateral deafness which, when combined with service-connected total blindness with 5/200 visual acuity or less, entitles the veteran to the payment of disability compensation at the rate of $2,111 per mounth (which would be increased to $2,185 per month by section 101(15) of the Committee bill).

Subsection (b) of section 112 would amend subsection (p) of present section 314 to permit the Administrator to prescribe the next higher rate of compensation prescribed in any of present subsections (l) through (o), but in no event higher than the maximum rate prescribed in present subsection (p) of $2,111, in the case of a veteran who has suffered service-connected blindness, with 5/200 visual acuity or less, and bilateral deafness (with the deafness in at least one ear being service connected) rated at no less than 30-percent disabling or service-connected total deafness in one ear. Under present law, the Administrator may prescribe the next higher rate of compensation to veterans who are blinded to that extent and have bilateral deafness (with at least one ear service connected) rated at no less than 40-percent disabling and the next intermediate rate of compensation to veterans who are blinded to that extent and have service-connected deafness in one ear. (The maximum rate prescribed in subsection (p) would be increased to $2,185 by section 101(15) of the Committee bill.)

Subsection (c) of section 112 would require the Administrator to conduct a study of the appropriateness of the correlations between degrees of deafness, both in connection with other disabilities and otherwise, and the rates of disability compensation paid by the VA. The Administrator would be required, no later than one year following the date of the enactment of the Committee bill, to submit to the Committees on Veterans' Affairs of the House of Representatives and the Senate, a report on the results of the study together with recommendations considered appropriate by the Administrator.

Section 112—Costs: Enactment of the provisions of section 112 is estimated to entail no significant costs.

Section 113

Would amend present chapter 52 of title 38, relating to applications for, effective dates of an payments of benefits administered by the VA, to modify, effective October 1, 1983, the effective dates of the commencement and termination of increases in compensation payable on account of certain periods of hospitalization or convalescence.

Subsection (a) of section 113 would amend subsection (c) of present section 3011, relating to the commencement of the period of payment for awards of compensation, to exempt from the rule (in present section 3010) postponing to the first day of the calendar month, following the month in which the award or increased award became effective, cases in which a temporary increase in compensation is payable for certain periods of hospitalization or convalescence. Under VA regulations (sections 4.29 and 4.30 of title 38, Code of Federal Regulations) as in effect prior to October 1, 1982, veterans hospitalized for a period of more than 21 days for a service-connected disability—and those convalescing after certain surgical or medical procedures for a service-connected disability—received a temporary rating of 100-percent disabled effective on the first day of hospital care and payable for the period beginning on that date and ending on the last day of the month in which the hospital care for the service-connected disability—or the period of convalescence—terminated. However, by virtue of the enactment of section 3011(a) of title 38 in section 401 of the Omnibus Budget Reconciliation Act of 1982, effective October 1, 1982, the commencement of the period for which an award or increased award of compensation—including a temporary increase under these VA regulations—is postponed to the first day of the month following the month in which the award otherwise becomes effective. Thus, the Committee bill amendment of section 3011(c) would, effective October 1, 1983, re-establish the first day of hospital care for the veteran's service-connected disability as the date on which the period of payment commences for the temporary increase.

The amendment proposed to be made by this provision, together with the amendment proposed to be made by subsection (b) of this section of the Committee bill (discussed below), would have the effect of making the increased compensation payable for precisely the period of hospital care or convalescence involved—with no exclusion from the payment period and no payment for the days following the termination of the hospital care or convalescence until the last day of the month in which the care or convalescence terminates.

Subsection (b) of section 113 would amend present section 3012(b)(8), of title 38, relating to the effective date of a reduction or discontinuance of certain monetary benefits, to provide that the effective date of a discontinuance of certain temporary increases in compensation for hospitalization or convalescence, as described above in the analysis of subsection (a) of this section of the Committee bill, shall be the date on which the period of hospitalization or convalescence in question ends rather than, as under present law, the last day of the month in which that period ends.

In addition, the amendments proposed to be made by this provision would make technical changes in the wording of section 3012(b)(8) to conform it more closely to the scope of the provisions of the VA regulations that provide these temporary increases.

Subsection (c) of section 113 would require the Administrator to prescribe guidelines and take other appropriate steps to prevent overpayments of compensation benefits in the cases of benefits paid for periods of hospitalization or convalescence pursuant to sections 3011(c) and 3012(b) of title 38 as proposed to be amended by this section of the Committee bill.

Section 113—Costs: Enactment of the provisions of section 113 is estimated to entail no significant costs.

Section 114

Would amend, effective with respect to determinations made after March 31, 1984, to discontinue or reduce certain benefits, certain provisions of present part IV of title 38, relating to administrative matters, to enable certain veterans receiving disability compensation for long-term total disabilities to elect to continue receiving compensation, without reduction, pending review and appeal of VA regional office determinations that their disabilities are not service-connected, that they are not unemployable because of service-connected disability or that their physical conditions have improved. Under current law, when a VA regional office makes such a determination, the effective date of the reduction or discontinuance is the last day of the month following 60 days after notice is given the veteran. A veteran who disagrees with that determination may, within one year after notice of it is mailed to him or her, initiate a review by filing a notice of disagreement. At that point, the regional office must take such development and review action as it deems proper and, if the disagreement still exists, issue a statement of the case explaining the basis for the determination. Thereafter, the veteran has 60 days to file a formal appeal. Final decisions on appeal are made by the Board of Veterans' Appeals (BVA) in Washington, D.C. Under the Committee bill, if the veteran files a notice of disagreement within 30 days after the regional office determination is sent, the veteran could request that his or her compensation continue to be paid until a BVA decision is made. However, if a reduction or discontinuance were upheld by the BVA, the veteran would be liable for the amounts paid by virtue of the request.

Subclause (A) of clause (1) of subsection (a) of section 114 would amend present section 3012(b)(6) of title 38—which specifies that the effective date of a reduction or discontinuance of compensation by reason of a change in the veteran's physical condition or service-connected or employability status is the last day of the month following 60 days after notice is given the veteran—to provide for an exception allowing for the continuation of benefits in cases covered by new subsection (c) of section 3012, as proposed to be added by clause (2) of this section of the Committee bill, discussed below.

Subclause (B) of clause (1) of subsection (a) of section 114 would further amend present section 3012(b)(6) to eliminate a gender reference.

Clause (2) of subsection (a) of section 114 would amend present section 3012, relating to the effective date of reductions and discontinuances of compensation, DIC and pension benefits, to add a new subsection (c), as follows:

New subsection (c) of section 3012: Would specify that, in the case of a veteran who, pursuant to new section 3117 of title 38, as proposed to be added by subsection (b)(1) of this section of the Committee bill (discussed below), files a request for continuation of compensation pending review and appeal, the effective date of a reduction or discontinuance of compensation as a result of a change in a veteran's service-connected or employability status or physical condition shall be the earliest of (1) the date on which a notice of disagreement filed in accordance with subsection (a)(4) of proposed new section 3117 is withdrawn; (2) the date on which a statement is filed, pursuant to subsection (b) of proposed new section 3117, withdrawing the request for continuation of benefits; (3) the date on which the case is closed pursuant to present section 4005(d)(3) of title 38, which provides for the closing of a case following the veteran's failure to file a formal appeal after being provided with a statement of the case; or (4) the date on which a final determination upholding a reduction or discontinuance of benefits is made by the Board of Veterans' Appeals. In no event, however, could the effective date of the reduction be earlier than the date established under current law—the last day of the month following 60 days from the date of notice to the veteran of the reduction or discontinuance. The Committee notes its intention that the term "physical condition" in this new subsection (as well as in subsection (a)(2) of new section 3117 as proposed to be added by subsection (b)(1) of this section of the Committee bill (discussed below)) be construed—like the same term in present section 3012(b)(6)—as including the veteran's mental condition.

Paragraph (1) of subsection (b) of section 114 would amend chapter 53 of title 38, relating to various aspects of the administration of VA benefits, to add a new section 3117, as follows:

New section 3117.—Continuation of disability compensation pending review and appeal: Would provide for the continuation, upon the veteran's request, of certain compensation benefits pending review and appeal of a determination to discontinue or reduce the veteran's compensation and, if the appeal is denied, provide for repayment of compensation overpayments.

Subsection (a) of new section 3117: Would, in the case of a veteran who is in receipt of compensation, who receives from the VA a notice of a determination to reduce or discontinue such compensation as a result of a change in the veteran's service-connected or employability status or change in physical condition, whose disability had been rated as totally disabling for not less than ten years as of the date of that determination, and who, not later than 30 days after the date on which that notice was sent, files a notice of disagreement with that determination, permit the veteran to file with the notice of disagreement a request that his or her compensation benefits not be reduced or discontinued pending the final determination of the Board of Veterans' Appeals on any formal appeal of the determination.

Subsection (b) of new section 3117: Would permit a veteran who files a request under subsection (a) of this proposed new section for continuation of benefits pending review and appeal to file a written statement withdrawing such a request at any time.

Subsection (c) of new section 3117: Would provide that the effective date of a reduction or discontinuance of disability compensation with respect to which a request is made and which is not reversed shall be as provided for in new subsection (c) of section 3012 (as proposed to be added by subsection (a) of this section of the Committee bill and discussed above), i.e., generally as late as the date of a BVA decision upholding the discontinuance or reduction.

Subsection (d) of new section 3117: Would provide that, in the event a reduction or discontinuance of disability compensation becomes effective as provided in such new subsection (c) of present section 3012, the veteran shall be indebted to the United States for the amount of compensation paid to the veteran as a result of the continuance of benefits pursuant to the veteran's request (that is, following the otherwise applicable effective date under present section 3012(b)(6)) during the applicable review and appeal process.

Paragraph (2) of subsection (b) of section 114 would amend the table of sections at the beginning of chapter 53 to reflect the addition of new section 3117.

Section 114—Costs: Enactment of the provisions of section 114 is estimated to result in costs of less than $500,000 in fiscal year 1984.

TITLE II—AMENDMENTS TO OTHER VETERANS' PROGRAMS

Section 201

Would amend present section 1008(a)(2) of title 38, United States Code, relating to the authorization of appropriations for matching-fund grants to the States for the establishment, expansion and improvement of State veterans' cemeteries, to extend the authorization of appropriations for five fiscal years—fiscal years 1985 through 1989—and, with respect to those years, authorize appropriations of such sums as may be necessary each fiscal year for such grants.

Section 201—Costs: Enactment of the provisions of section 201, which have an effect on the fiscal year 1984 authorization of appropriations, is estimated to entail no significant costs in fiscal year 1984. (For cost data regarding fiscal years 1985 through 1988, see the Congressional Budget Office estimate reprinted earlier in this report.)

Section 202

Would amend present section 1662(e) of title 38, relating to the December 31, 1989, termination date for the provision of educational assistance under chapters 34 and 36 of title 38, the so-called "Vietnam-era GI Bill", to repeal the existing provision prohibiting the payment of any such assistance after December 31, 1989, and to require the Secretary of Defense to reimburse the Administrator for all such assistance paid after that date. The effect of repealing the termination date provision would be to permit veterans whose normal periods of GI Bill eligibility, which generally expire 10 years after their discharges or releases from active duty, to use their benefits after December 31, 1989, if their periods of eligibility extend past that date.

Section 202—Costs: Enactment of the provisions of section 202 is estimated to result in no costs in fiscal year 1984 and would not have a significant budgetary impact until fiscal year 1990.

Section 203

Subsection (a) of section 203 would amend present section 1602(1)(A) of title 38, relating to eligibility for the chapter 32, Post-Vietnam Era Veterans' Educational Assistance program, to provide certain individuals with the option of electing to receive educational assistance benefits under the chapter 32 program in lieu of benefits under the chapter 34 (Vietnam-era GI Bill) program. Those who would be given this option are individuals who (1) are eligible for chapter 34 benefits by virtue of present section 1652(a)(3), which provides chapter 34 eligibility to individuals who served on active duty for training under section 511(d) of title 10, United States

Code (relating to enlistments in the National Guard or Reserve components of the various service branches) prior to January 1, 1977, and, subsequent to such active duty for training, serve on active duty for a period of one year or more, and (2) would be eligible for the chapter 32 program except for the provision in present section 1602(1)(A) making all persons with chapter 34 eligibility ineligible for chapter 32.

Subsection (b) of section 203 would amend present section 1733(a) of title 38, relating to the payment of educational assistance without charge to entitlement for pursuit of high school or equivalency and certain refresher courses or other special training to certain veterans' spouses and surviving spouses under chapter 35, to limit the payment of such assistance to the amount of tuition and fees or the full-time institutional rate, whichever is the lesser, thereby conforming the level of assistance paid to spouses and surviving spouses for pursuit of such training to the level of assistance paid to veterans under chapter 34 for pursuit of such training.

Paragraph (1) of subsection (c) of section 203 would amend present section 1781 of title 38, relating to limitations on educational assistance under chapters 34, 35, and 36 of title 38 and the subsistence allowance under chapter 31 of title 38, to redesignate the present section as subsection (a) of section 1781 and add at the end thereof a new subsection (b), as follows:

New subsection (b) of section 1781: Would prohibit the payment of concurrent benefits for pursuit of the same program of education under two or more educational assistance programs administered by the VA.

Paragraph (2) of subsection (c) of section 1781 would amend present section 1795(a) of title 38, relating to a limitation on the aggregate number of months of assistance that an individual may receive under specified veterans' education programs, to make a technical change (which conforms to wording of the new subsection added by paragraph (1) of this subsection of the bill) changing to "provisions of law" from "laws" the term used to refer to the authorities for such programs.

Section 203—Costs: Enactment of the provisions of section 203 is estimated to entail no significant costs.

Section 204

Would amend present section 1802(b)(2) of title 38, relating to the computation of the aggregate amount of VA home-loan guaranty (or insurance or direct-loan) entitlement available to a veteran, to permit the exclusion from the computation of available entitlement the amount of entitlement used in connection with a home-purchase loan if a veteran other than an immediate transferee subsequently purchases the home, agrees to assume the balance of the loan and consents to the substitution of his or her entitlement. Under current law, such substitution of entitlement is permitted only if the veteran-purchaser is an immediate transferee, that is, a veteran purchasing a home directly from the veteran whose entitlement was used for the loan.

Section 204—Costs: Enactment of the provisions of section 204 is estimated to entail no significant costs.

Section 205

Would amend chapter 37 of title 38, relating to the VA home-loan guaranty program, to make applicable to a guaranty for a loan for a manufactured home that is or will be permanently affixed to a lot that is owned or being purchased by the veteran the terms and conditions of such chapter that apply to the guaranteeing of loans for conventional loans if, under the laws of the State where the lot is located, a home permanently affixed to a lot is considered real property.

Clause (1) of subsection (a) of section 205 would amend present section 1810(a), relating to the purposes for which loans are automatically guaranteed under chapter 37, to add a new clause (9), as follows:

New clause (9) of section 1810(a): Would, subject to the provision of new subsection (f) of section 1810, as proposed to be added by clause (2) of this subsection of section 205 of the Committee bill and discussed below, include two new categories of loans—both involving manufactured homes that are or will be permanently affixed to a lot owned by a veteran—among the loans made pursuant to the provisions of chapter 37 that, under section 1810(a), are automatically guaranteed. These two categories are loans that are made (1) for the purpose of purchasing either a manufactured home to be permanently affixed on a lot owned by the veteran-purchaser or a manufactured home and a lot on which the home will be permanently affixed, or (2) for the purpose of either refinancing an existing loan guaranteed, insured or made under chapter 37 that is secured by a manufactured home permanently affixed on a lot owned by the veteran or of refinancing an existing loans guaranteed, insured, or made under chapter 37 that is secured by a manufactured home permanently affixed on a lot and purchasing that lot. The effect of providing for the guaranty of these loans under section 1810(a) is to make applicable to them the more advantageous features of the conventional home-loan guaranty program, such as the higher maximum guaranty amount ($27,500 versus $20,000) and the longer maximum loan term (30 years and 52 days versus 25 years and 32 days (for a double-wide home and lot)).

Clause (2) of subsection (a) of section 205 would further amend present section 1810 to add a new subsection (f), as follows:

Paragraph (1) of new subsection (f) of section 1810: Would provide that, in order for a loan involving the purchase of a lot on which a manufactured home will be permanently affixed to be automatically guaranteed, the loan for the purchase (or refinancing) of the home and for the purchase of the lot must be considered as one loan, and the loan must comply with such other criteria as may be prescribed by the Administrator in regulations.

Paragraph (2) of new section (f) of section 1810: Would provide that a loan would not be guaranteed under the authority in new clause (9) of section 1810(a) (as discussed above) unless, upon being permanently affixed to a lot, the manufactured home is considered to be real property under the laws of the State in which the lot is located.

Subsections (b) and (c) of section 205 would amend present sections 1819(a)(5), relating to guaranties of loans made both to refinance loans made for the purchase of manufactured homes and lots and to purchase the lots on which the homes are or will be placed, and 1803(c)(3), relating to reasonable discounts that veterans may be permitted to pay lenders making VA-guaranteed loans, to make conforming changes reflecting the new authorities for loans for manufactured homes permanently affixed to lots, as proposed to be provided by subsection (a) of this section of the Committee bill.

Section 205—Costs: Enactment of the provisions of section 205 is estimated to entail no significant costs.

Section 206

Would amend present section 2011 of title 38, relating to definitions for the purposes of chapters 41, Job Counseling, Training, and Placement Service for Veterans, and 42, Employment and Training of Disabled and Vietnam Era Veterans, to expand the definition of "special disabled veteran" (currently, veterans entitled to compensation for disabilities rated at 30-percent or more disabling, or veterans discharged or released from service because of service-connected disability) to include a veteran with a service-connected disability rated at 10- or 20-percent disabling if—under section 1506 of title 38, relating to evaluations of veterans applying for the VA's rehabilitation program for service-connected disabled veterans and determinations of whether such veterans have serious employment handicaps—the veteran has been determined to have such a handicap. Expansion of the definition of the term "special disabled veteran" in this fashion would have the effect of including the new category. of veterans among those who have the benefit of employment emphasis under Federal contracts as required by present section 2012 and to whom the VA may, under present section 2014(g), gave preference in employment in certain programs.

Section 206—Costs: Enactment of the provisions of section 206 is estimated to entail no significant costs.

Section 207

Subsection (a) of section 207 would amend present section 3202(a) of title 38, relating to the appointment of a fiduciary for an individual for the purposes of VA benefit payments, to redesignate existing subsection (a) as paragraph (1) and to add at the end a new paragraph (2), as follows:

New paragraph (2) of subsection (a) of section 3202: Would authorize the Administrator to permit a VA-appointed fiduciary to deduct from the beneficiary's estate a reasonable commission for fiduciary services rendered when the Administrator determines that allowing such a commission is necessary in order to induce a person whose service as a fidicuary would be in the best interest of the beneficiary to so serve. In no event could the commission exceed in any year four percent of the monetary benefits paid by the VA to the beneficiary/that year, or could any commission be paid to a fiduciary who receives any other form of remuneration by virtue of rendering fiduciary services on behalf of the beneficiary.

Subsection (b) of section 207 would amend the section heading of present section 3202 to change to "fiduciaries" the reference to "guardians" in order for the heading to reflect more accurately the substance and language of that section.

Subsection (c) of section 207 would amend the table of sections of present chapter 55 to reflect the change proposed to be made in the section heading of section 3202 by subsection (b) of this section of the Committee bill.

Section 207—Costs: Enactment of the provisions of section 207 is estimated to entail no significant costs.

Section 208

Would amend present section 4112(a) of title 38, relating to the membership of the VA's Special Medical Advisory Group (SMAG), to provide expressly that the membership of SMAG is to include—in addition to members of the medical, dental, podiatric, optometric and allied scientific professions and a disabled veteran, as specified in current law—individuals considered by the Chief Medical Director to have experience pertinent to the missions of the Department of Medicine and Surgery.

Section 208—Costs: Enactment of the provisions of section 208 is estimated to entail no significant costs.

Section 209

Subsection (a) of section 209 would provide that, notwithstanding the provisions of present section 5004(a)(1) of title 38, relating to Veterans' Affairs Committees' approval of VA medical facility construction projects, or any other provisions of law, and subject to the provisions of subsections (b) and (c) (discussed below), certain "working reserve" funds in the VA's major construction account may be used for working drawings. (This "working reserve" consists of funds that were appropriated to the VA's major construction projects account and that the Administrator has determined are no longer needed for the projects for which such funds were appropriated. Thus, an amount not to exceed $25 million in "working reserve" funds may, if the Administrator determines that the funds are not needed for construction contingency purposes, be obligated in fiscal year 1984 for the purpose of undertaking in that year working drawings for the construction or alteration of any medical facility so that such construction or alteration can, subject to the availability of appropriations therefor, be undertaken in fiscal year 1985. No funds could be expended, however, for working drawings for the replacement or new construction of a complete health-care facility.

Paragraph (1) of subsection (b) of section 209 would limit to $2.5 million the amount that could be used for working drawings on any one medical facility construction project under the authority proposed in subsection (a) of this section of the Committee bill.

Paragraph (2) of subsection (b) of section 209 would require the Administrator, prior to undertaking working drawings for a medical facility construction project, to provide written notice, at least 30 days in advance of initiation of such drawings, to the Committees on Veterans' Affairs and on Appropriations of the House of Representatives and the Senate, together with the estimated cost of the drawings and the estimated range of the total costs of the construction project.

Subsection (c) of section 209 would provide that, for the purposes of this section of the Committee bill, the term "medical facility" shall have the meaning provided in present section 5001(3) of title 38; that is, any facility or part thereof under the jurisdiction of the Administrator for the provision of health-care services, including auxiliary structures, mechanical equipment, and various facilities associated with the facility.

Section 209—Costs: Enactment of the provisions of section 209 is estimated to cost $25 million in outlays but not to require any budget authority in fiscal year 1984.

Section 210

Would provide that the land comprising the Confederate Cemetery in Springfield, Missouri, shall be considered part of the Springfield National Cemetery and may be used for the purposes for which national cemetery lands may be used under present chapter 24 of title 38, relating to national cemeteries and memorials. In addition, the condition set forth in the first section of the Act of March 3, 1911, requiring that the land involved be used only as a cemetery for men who served in the military or naval service of the Confederate States of America, would be superseded.

Section 210—Costs: Enactment of the provisions of section 210 is estimated to entail no significant costs.

TITLE III—EFFECTIVE DATES

Section 301

Would provide for effective dates for the provisions of the Committee bill.

Subsection (a) of section 301 would provide that the provisions of the Committee bill would be effective on the date of the enactment of the Committee bill except as provided in subsections (b), (c), and (d) of this section.

Subsection (b) of section 301 would provide that the provisions of sections 101 through 106, providing for compensation and DIC rate increases, would be effective on April 1, 1984.

Subsection (c) of section 301 would provide that the provisions of section 114, providing for the continuation of compensation pending review and appeal of a reduction or discontinuance in certain cases, would apply with respect to determinations made after March 31, 1984, to reduce or discontinue compensation benefit payments.

Subsection (d) of section 301 would provide that the amendments made by sections 111, 112 (a) and (b), and 113 (a) and (b), making various improvements in the compensation program, and section 209, regarding certain construction projects, would take effect on October 1, 1983.

TABULATION OF VOTES CAST IN COMMITTEE

In compliance with paragraph 7 of rule XXVI of the Standing Rules of the Senate, the following is a tabulation of votes cast in person or by proxy by Members of the Committee on Veterans' Affairs at a July 21, 1983, meeting to consider provisions contained in S. 1388, introduced by Senator Simpson on May 26, 1983, and other measures.

The Committee agreed to report S. 1388, with an amendment in the nature of a substitute, favorably to the Senate by unanimous voice vote.

Prior to that vote, two motions to amend the Committee bill were made as described below.

First, the Committee did not adopt a motion made by Senator Randolph to add systemic lupus erythematosus to the list of chronic diseases becoming manifest within one year after the veteran's discharge that are presumed to be service connected for VA disability compensation purposes.

Senator Specter submitted a proxy, which was voted for him against the amendment during the rollcall vote. The result of the vote at that point was as follows:

NAYS—7

Alan K. Simpson
Strom Thurmond
Robert T. Stafford
Frank H. Murkowski
Arlen Specter
Jeremiah Denton
Rudy Boschwitz

YEAS—5

Alan Cranston
Jennings Randolph
Spark M. Matsunaga
Dennis DeConcini
George J. Mitchell

Subsequently, the following letters were received:

U.S. SENATE,
Washington, D.C., July 22, 1983.

DEAR SENATOR SIMPSON: I inadvertently signed the wrong proxy for Senator Randolph's amendment to the Compensation Bill on Thursday. Attached please find the intended proxy. I apologize for any inconvenience.

Sincerely,

ARLEN SPECTER.

U.S. SENATE,
Washington, D.C., July 22, 1983.

DEAR SENATOR SIMPSON: I hereby authorize and request you to vote my proxy for Senator Randolph's amendment to add the condition of Systemic Lupus Erythematosus to the list of chronic conditions that now have a one year period of presumption for VA disability compensation purposes.

Sincerely,

ARLEN SPECTER.

The following letter was sent from Senator Simpson to Senator Specter:

JULY 27, 1983.

Hon. ARLEN SPECTER,
U.S. Senate,
Washington, D.C.

DEAR ARLEN: This will acknowledge receipt of your letter dated July 22 noting that you had inadvertently signed the wrong proxy with regard to Jennings Randolph's amendment on Systemic Lupus Erythematosus at last Thursday's markup.

I have directed that your letter, noting that you had inadvertently signed the wrong proxy, your corrected proxy, and this letter be included in the record for that markup.

I would note that, had your vote been cast in accordance with your proxy as corrected, the outcome would not have been different, the Randolph amendment then failing on a tie vote.

With warmest personal regards,

Sincerely,

ALAN K. SIMPSON, *Chairman.*

The corrected proxy did not change the outcome on the motion by a record vote of 6–6, as follows:

NAYS—6

Alan K. Simpson
Strom Thurmond
Robert T. Stafford
Frank H. Murkowski
Jeremiah Denton
Rudy Boschwitz

YEAS—6

Alan Cranston
Jennings Randolph
Spark M. Matsunaga
Dennis DeConcini
George J. Mitchell
Arlen Specter

Second, the Committee did not adopt a motion made by Senator Cranston (for himself and Senator Specter) to require the VA to develop regulations, through a public participatory process and subject to judicial review, providing guidelines for the adjudication of the claims of veterans who were exposed to Agent Orange or radiation and specifying any diseases of such veterans that are to be presumed service connected, by a record vote of 6–6, as follows:

NAYS—6

Alan K. Simpson
Strom Thurmond
Robert T. Stafford
Frank H. Murkowski
Jeremiah Denton
Rudy Boschwitz

YEAS—6

Alan Cranston
Jennings Randolph
Spark M. Matsunaga
Dennis DeConcini
George J. Mitchell
Arlen Specter

AGENCY REPORTS

The Veterans' Administration submitted letters dated March 25, April 15 and April 18, 1983, transmitting Administration-requested measures that were subsequently introduced as S. 1402, S. 1403, S. 1401 and S. 1388 on May 26, 1983.

On July 6, 1983, the Chairman requested that the VA report to the Committee on its views of S. 1470, introduced on June 14, 1983.

Draft legislative language requested by the VA on June 22, 1983, for congressional consideration was not introduced as separate bills, but was incorporated into provisions of the Committee bill derived from the requests.

The letters of request and the VA's report on the agency's views follow:

Office of the
Administrator
of Veterans Affairs

Washington, D.C. 20420

Veterans
Administration

MARCH 25 1983

Honorable George Bush
President of the Senate
Washington, D.C. 20510

Dear Mr. President:

Enclosed is a draft bill to permit substitution of a veteran's housing loan entitlement when the veteran-transferee is not an immediate transferee. I request that this measure be introduced and promptly enacted.

The Servicemen's Readjustment Act of 1944 originally granted a veteran $2,000 of loan guaranty entitlement. No provision was made for a veteran to regain previously-used entitlement. The Housing Act of 1950 [Pub. L. No. 475, 81st Cong., 2d Sess., § 301(a), 64 Stat. 48, 74 (1950)] amended the law to permit the Administrator to restore a veteran's home loan entitlement if the property was destroyed or "disposed of because of . . . compelling reasons devoid of fault on the part of the veteran . . . ."

In 1974, the Congress recognized "the fact that we live in a highly mobile society and also that many veterans desire or find the need for a different or larger house for personal reasons." S. Rep. No. 1344, 93d Cong., 2d Sess. 10 (1974). Accordingly, the Congress greatly expanded the circumstances under which previously-used home loan entitlement could be restored when it enacted the Veterans Housing Act of 1974 [Pub. L. No. 93-569, § 3, 88 Stat. 1863 (1974)].

At present, section 1802(b) of title 38, United States Code, permits home loan entitlement to be restored when either of two conditions are met. Under the first method, the property which secured the prior loan must have been disposed of by the veteran or destroyed by fire or natural hazard, and the prior loan must have been paid in full. If the Administrator has suffered a loss on such a loan, that loss must have been paid in full.

A veteran's home loan entitlement may also be restored when another veteran agrees to assume the outstanding loan and to substitute his or her VA home loan entitlement for that of the original veteran. The new veteran must be found by VA to be fully qualified for the loan. The law provides, however, that the new veteran must be "an immediate veteran-transferee."

We are proposing to eliminate the requirement that the veteran-transferee be an "immediate" transferee.

The sale of a home with the purchaser assuming the existing mortgage loan is becoming more common. The fact that VA guaranteed loans are freely assumable is an important feature of this type of financing. The substitution of entitlement feature now in the law has enabled veterans to take advantage of the assumability feature of the VA loan as well as to benefit by being able to obtain a new home with VA financing. Loans are often assumed by two or more successive purchasers, and an increasing number of requests are being received for substitution of entitlement where the veteran assuming the loan is not an immediate transferee of the original veteran. Another fact pattern that VA is seeing with increasing frequency involves a marital breakup. A home purchased by a veteran and the veteran's spouse may be awarded to the spouse in a divorce. Some time after the divorce, the former spouse sells the property to a veteran on an assumption. Since the new veteran is not the original veteran's immediate transferee, restoration of the first veteran's home loan entitlement is not legally possible. We see no logical reason to preclude substitution of entitlement merely because the assuming veteran is not an "immediate" transferee.

Enactment of this proposal will have no significant budget impact.

The Office of Management and Budget advises that there is no objection to submission of the draft bill to the Congress from the standpoint of the Administration's program.

Sincerely,

Harry N. Walters

HARRY N. WALTERS
Administrator

Enclosure

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A BILL

To amend title 38, United States Code, to permit substitution of a veteran's housing loan entitlement when the veteran-transferee is not an immediate transferee.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1802(b)(2) of title 38, United States Code, is amended by striking out "an immediate" and inserting in lieu thereof "a".

Office of the
Administrator
of Veterans Affairs

Washington, D.C. 20420

Veterans
Administration

MARCH 25 1983

Honorable George Bush
President of the Senate
Washington, D.C. 20510

Dear Mr. President:

There is transmitted herewith a draft bill, "To amend subsection 1008(a)(2) of title 38, United States Code, to authorize to be appropriated such sums as deemed appropriate for fiscal year 1985 and for each of the four succeeding fiscal years." Presently, subsection 1008(a)(2) authorizes the appropriation of $5,000,000 for fiscal year 1980 and for each of the four succeeding fiscal years to fund the State cemetery grant program instituted by Public Law 95-476. In order to continue to implement the program, the draft bill would authorize appropriations to fund this program for fiscal year 1985 through fiscal year 1989. It is requested that the bill be referred to the appropriate committee and that it be favorably considered for enactment.

The Veterans Administration (VA) has made a continuous and aggressive effort to publicize the State cemetery grant program. Currently, 11 States have submitted 16 applications for Federal assistance in establishing, expanding or improving State veterans' cemeteries while an additional 24 States have expressed an interest in submitting applications. It is anticipated that the program will be fully utilized.

Section 1008 of title 38 makes it possible for the States and the Federal Government to share their mutual obligation toward meeting the burial needs of our Nation's veterans. The establishment of State veterans' cemeteries will complement those cemeteries already established or under construction in the National Cemetery System and will make it possible for every veteran, who so wishes, to be buried with his comrades-in-arms in a cemetery in his home State.

The total cost of the proposed 5-year extension would depend on the level of appropriation and the amount of State requested assistance.

The VA believes that the extension of this program will be beneficial to veterans and the Nation. It is with this purpose in mind that we submit this legislation.

We are advised by the Office of Management and Budget that the enactment of this draft bill would be in accord with the program of the President.

Sincerely,

Harry N. Walters

HARRY N. WALTERS
Administrator

Enclosure

A BILL

To amend title 38, United States Code, to provide for a 5-year extension to permit States to apply for Federal aid in establishing, expanding or improving State veterans' cemeteries.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Chapter 24 of title 38, United States Code, is amended by adding at the end of the first sentence of subsection (a)(2) of section 1008 the following new sentence:

"There is also authorized to be appropriated such additional sums as shall be deemed appropriate for fiscal year 1985 and for each of the four succeeding fiscal years for the purpose of the preceding sentence of this subsection (a)(2)."

SEC. 2. This Act shall become effective upon the date of enactment.

SECTION-BY-SECTION ANALYSIS OF A NEW DRAFT BILL

A BILL TO amend Title 38, United States Code, to extend the present five fiscal years appropriation authorization contained therein for an additional five fiscal years.

Section 1

Section 1 of the bill would amend Chapter 24 of title 38 by adding to subsection (a)(2) of section 1008 an additional sentence which would provide authorization to be appropriated such additional sums as shall be deemed appropriate for fiscal year 1985 and for each of the four succeeding fiscal years for the purpose of making grants under the authority of the preceding sentence of this subsection.

Section 2

Under this section the amendments to Chapter 24 of title 38 would be effective on the date of enactment.

CHANGES IN EXISTING LAW MADE BY THE DRAFT BILL

Changes in existing law made by the draft bill are shown as folllows: (Existing law proposed to be omitted is enclosed in black brackets; new matter to be printed in italics is underlined; existing law in which no change is proposed is shown in roman):

TITLE 38 - UNITED STATES CODE

* * * * * * *

PART II GENERAL BENEFITS

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CHAPTER 24 - NATIONAL CEMETERIES AND MEMORIALS

* * * * * * *

§ 1008. Aid to State for establishment, expansion, and improvement of veterans' cemeteries

> (a)(1) Subject to subsection (b) of this section, the Administrator may make grants to any State to assist such State in establishing, expanding, or improving veterans' cemeteries owned by such State. Any such grant may be made only upon submission of an application to the Administrator in such form and manner, and containing such information, as the Administrator may require.
>
> (2) There is authorized to be appropriated $5,000,000 for fiscal year 1980 and for each of the four succeeding fiscal years for the purpose of making grants under paragraph (1) of this subsection. (Added) P.L. 95-476. § 202 (b)(1).) *There is also authorized to appropriated such additional sums as shall be deemed appropriate for fiscal year 1985 and for each of the four succeeding fiscal years for the purposes of the preceding sentence of this subsection (a)(2).*

Office of the
Administrator
of Veterans Affairs

Washington DC 20420

Veterans
Administration

APRIL 15 1983

Honorable George Bush
President of The Senate
Washington, D.C. 20510

Dear Mr. President:

Enclosed is a draft bill to clarify the authority of the VA, in limited types of cases, to permit Federal fiduciaries to deduct from beneficiaries' estates modest commissions for fiduciary services rendered. I request that the measure be introduced and considered for enactment.

Section 3202 of title 38, United States Code, provides broad discretion for the Administrator to supervise the benefits paid to legally disabled beneficiaries (e.g., minors and incompetents). Operating within this authority, the Administrator waives objection to lawful and reasonable requests for fiduciary commissions (payable from the beneficiaries' estates) by court-appointed fiduciaries who manage VA funds. Of course, the ultimate decision regarding the commissions in such cases lies with the State courts (the appointing authority).

An anomalous situation exists, however, in regard to fiduciaries administratively appointed by the VA (generally known in the VA as Federal fiduciaries). They receive no payment for their fiduciary services.

Long experience has shown that expense to the beneficiary and "red tape" are reduced when the VA can administratively appoint a fiduciary in lieu of seeking appointment of a fiduciary by a court. As a result of Pub. L. No. 93-295, which amended section 3202, this type of fiduciary arrangement came into much wider use, and many such fiduciaries now manage substantial funds. With relatively few exceptions, this type of arrangement has worked well. There are presently nearly 69,000 adult beneficiaries and over 13,000 minor beneficiaries who have fiduciaries administratively appointed and supervised by the VA as opposed to over 37,000 adults and more than 2,900 minors whose VA moneys are under court as well as VA supervision.

A Federal fiduciary generally performs the same types of services as does one appointed by the courts, but to a lesser degree. These include such services as making purchases for and paying the expenses of the beneficiary, investing surplus funds, and accounting (formally or informally) to the VA for benefit funds managed. The major difference is that a Federal fiduciary, as such, manages only VA funds and is accountable only to the VA, while a court-appointed fiduciary, in addition to managing VA funds, often manages funds from other sources and is accountable to the court as well as the VA.

The policy of not permitting a deduction for commission by a Federal fiduciary is consistent with the early uses of this type of fiduciary, which almost always involved lawful dependents of the beneficiary or institutional payees. Where a dependent was appointed, such gratuitous services appeared to be justified because the fiduciary benefited financially as a dependent. Where an institutional payee served, such services were considered built into the cost of care. But with expanded use of Federal fiduciaries, some are now selected from beyond familial and institutional relationships. Some of these, we believe, should be compensated for services rendered.

Because there exists no specific statutory language to authorize deduction of Federal fiduciary commissions, and because of the history of non-authorization by the VA, we believe legislative clarification is needed to provide such authority in limited types of cases. The proposed policy to permit deduction for fiduciary services is consistent with our longstanding policy to permit deduction to reimburse for other purposes (trips to the doctor, room and board, etc.).

In keeping with the philosophy of pertinent changes wrought by Pub. L. No. 93-295, we believe the officials charged with identifying a person both capable and willing to serve as fiduciary should have the latitude to select the payee best suited to the needs of the particular beneficiary. While we generally favor appointing family members and institutional directors as Federal fiduciaries, sometimes it is best to appoint someone else. VA field station personnel have voiced concern that often there are available well-qualified, nondependent persons (such as bookkeepers, accountants, etc.) who would be willing to serve as Federal fiduciaries, but who will not serve because there would be no pay for the responsibilities they would assume. VA field personnel have asked to have the additional authority available to use, if needed.

In many cases, there is not a qualified family member available and willing to serve and the estate is too small to warrant the added expense and burden of court appointment. Problems of this nature could be eliminated if there were limited authority to permit a Federal fiduciary to deduct from the beneficiary's estate a modest commission. We have proposed a four percent ceiling on the amount allowed. If more could be justified in an individual case, we believe the estate is complex enough to justify appointment through a State court. In some States, guardian commissions are five percent of receipts; in many States they are higher, sometimes substantially so.

It is not our intent to adopt a policy of wholesale authorization of Federal fiduciary commissions. Accordingly, if the measure is enacted, we intend for the enabling regulations to draw narrow parameters around the use of such authority. We would permit deduction of Federal fiduciary commissions only in instances when necessary to enable the field examiner to appoint a fiduciary best suited to the needs of the beneficiary--a fiduciary who would not be likely to assume the responsibility gratuitously.

We wish to make clear that because such fiduciary commissions would be allowed from benefits paid, enactment of this measure would in no way increase costs to the taxpayers.

Advice has been received from the Office of Management and Budget that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

Harry N. Walters

HARRY N. WALTERS
Administrator

A BILL

To amend title 38, United States Code, to clarify the authority of the Administrator to permit a federal fiduciary, administratively appointed by the Veterans Administration, to deduct from the beneficiary's estate a modest commission for fiduciary services.

Be it enacted by the Senate and House of Representatives of the United States in Congress assembled, That section 3202 of title 38, United States Code, is amended--

(1) by inserting after the last sentence of subsection (a) the following: "The Administrator may authorize a fiduciary administratively appointed by the Veterans' Administration to deduct from the beneficiary's estate a reasonable commission for fiduciary services rendered, but in no event shall the commission for any given year exceed four percent of the Veterans' Administration monetary benefits paid during the same year.

SEC. 2. The section heading for section 3202 is amended by striking "guardians" and substituting in lieu thereof "fiduciaries".

SEC. 3. This Act shall take effect June 1, 1983.

CHANGES IN EXISTING LAW MADE BY THE FIDUCIARY COMPENSATION DRAFT BILL

Changes in existing law made by the Fiduciary Compensation Draft Bill are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is underlined, existing law in which no change is proposed is shown in roman):

* * * * * * *

TITLE 38--UNITED STATES CODE

* * * * * * *

CHAPTER 55--MINORS, INCOMPETENTS, AND OTHER WARDS

CHAPTER 55—MINORS, INCOMPETENTS, AND OTHER WARDS

Sec.
3201. Commitment actions.
3202. Payments to and supervision of guardians.
3203. Hospitalized veterans and estates of incompetent institutionalized veterans.
3204. Administration of trust funds.

§ 3201. Commitment actions

The Administrator may incur necessary court costs and other expenses incident to proceedings for the commitment of mentally incompetent veterans to a Veterans' Administration hospital or domiciliary when necessary for treatment or domiciliary purposes.

§ 3202. Payments to and supervision of [guardians] fiduciaries

(a) Where it appears to the Administrator that the interest of the beneficiary would be served thereby, payment of benefits under any law administered by the Veterans' Administration may be made directly to the beneficiary or to a relative or some other person for the use and benefit of the beneficiary, regardless of any legal disability on the part of the beneficiary. Where, in the opinion of the Administrator, any fiduciary receiving funds on behalf of a Veterans' Administration beneficiary is acting in such a number of cases as to make it impracticable to conserve properly the estates or to supervise the persons of the beneficiaries, the Administrator may refuse to make future payments in such cases as he may deem proper. The Administrator may authorize a fiduciary administratively appointed by the Veterans' Administration to deduct from the beneficiary's estate a reasonable commission for fiduciary services provided, but in no event shall the commission for any given year exceed four percent of the Veterans' Administration monetary benefits paid during the same year.

* * * * * * *

BEST COPY AVAILABLE

Office of the
Administrator
of Veterans Affairs

Washington DC 20420

Veterans
Administration

April 18, 1983

Honorable George Bush
President of the Senate
Washington, D.C. 20515

Dear Mr. President

I am forwarding a draft bill to increase rates of compensation for service-disabled veterans and rates of dependency and indemnity compensation payable to certain veterans' survivors. I respectfully request its introduction and enactment.

Title I would authorize the disability compensation rate increase. The compensation program is designed to provide relief from the impaired earning capacity suffered by veterans disabled during, or as a result of, military service. Rates payable vary with the degrees of disability suffered, and disability ratings are required by section 355 of title 38 to represent, to the extent practicable, the average impairment in earning capacity resulting from such disabilities in civil occupations. Special higher rates are payable for specified disabilities, and additional compensation is payable for dependents if the veteran's rating is 30 percent or higher.

Administration of this program is one of VA's most important missions. Even in times demanding stringent fiscal restraint, we recognize a duty to recommend adjustments in response to changing economic conditions. Fortunately, the significant moderation in the rate of inflation means the purchasing power of the rates that became effective October 1, 1982, will not erode at the same pace as was the case over the past several years.

In recent years, compensation rate adjustments have been keyed to the indexed cost-of-living increases in Social Security and VA pensions. Recently enacted legislation, endorsed by the Administration, will defer for a period of six months these increases, otherwise scheduled to go into effect June 1, 1983. Consistent with that policy and in recognition of the need for moderation in Federal spending, we propose a compensation rate adjustment effective April 1, 1984, that is, six months later than the traditional date for such increases, to be based on the percentage increase currently projected for Social Security and VA pension benefits. Hence, our bill proposes an increase of 3.5% effective April 1, 1984.

Section 101 would increase rates of disability compensation, including the so-called special monthly compensation rates (except the "K" rate), by 3.5%. (As with all rates in our proposal, odd amounts resulting from our computations were rounded down to even dollars, consistent with the method employed in Pub. L. No. 97-306, the most recent rate increase.)

Sections 102 and 103 would, respectively, provide for an approximate 3.5% increase in rates of additional compensation for dependents and in the clothing allowance payable under section 362 of title 38 to certain veterans wearing or using prosthetic or orthopedic appliances.

Title II would authorize increases in dependency and indemnity compensation (DIC) rates. DIC is payable under chapter 13 of title 38 to the surviving spouses and children of veterans whose deaths were service connected. Payments at DIC rates may also be made if a veteran's death was nonservice connected but the veteran was rated as totally disabled for specified periods prior to death. Surviving spouses' DIC rates are based on the veterans' military pay grades. A surviving spouse may receive additional payments for the veteran's children under the age of 18, or if the surviving spouse is disabled. Children over age 18 who become helpless before reaching age 18 may receive DIC, as well as those age 18 to 23 attending approved educational institutions. If there is no surviving spouse, a child under the age of 18 may also receive DIC in the child's own right.

Sections 201 through 203 would increase DIC rates by approximately 3.5%, also effective April 1, 1984.

Our five-year estimate of the cost of our proposal, which is included in the economic assumptions for the April update of the President's Budget, is as follows (in millions of dollars):

FY 1984	$161.2
FY 1985	$322.5
FY 1986	$323.5
FY 1987	$324.6
FY 1988	$325.6

We estimate that an October 1, 1983, effective date for this increase, rather than the April 1, 1984 date we propose, would cost an additional $160.5 million in FY 1984.

Honorable George Bush

Advice has been received from the Office of Management and Budget that there is no objection to the submission of this draft bill to the Congress, and that its enactment would be in accord with the program of the President.

Sincerely,

Harry N. Walters

HARRY N. WALTERS
Administrator

98th Congress
First Session

S.___________

A BILL

To amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans and to increase the rates of dependency and indemnity compensation for surviving spouses and children of veterans.

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled,

SECTION 1.(a) This Act may be cited as the "Veterans' Disability Compensation and Survivors' Benefits Amendments of 1983".

(b) Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I--COMPENSATION RATE INCREASES

RATES OF DISABILITY COMPENSATION

SEC. 101.(a) Section 314 is amended--

(1) by striking out "$62" in subsection (a) and inserting in lieu thereof "$64";

(2) by striking out "$114" in subsection (b) and inserting in lieu thereof "$117";

(3) by striking out "$173" in subsection (c) and inserting in lieu thereof "$179";

(4) by striking out "$249" in subsection (d) and inserting in lieu thereof "$257";

(5) by striking out "$352" in subsection (e) and inserting in lieu thereof "$364";

(6) by striking out "$443" in subsection (f) and inserting in lieu thereof "$458";

(7) by striking out "$559" in subsection (g) and inserting in lieu thereof "$578";

(8) by striking out "$648" in subsection (h) and inserting in lieu thereof "$670";

(9) by striking out "$729" in subsection (i) and inserting in lieu thereof "$754";

(10) by striking out "$1,213" in subsection (j) and inserting in lieu thereof "$1,255";

(11) by striking out "$1,506" and "$2,111" in subsection (k) and inserting in lieu thereof "$1,558" and "$2,184", respectively;

(12) by striking out "$1,506" in subsection (l) and inserting in lieu thereof "$1,558";

(13) by striking out "1,661" in subsection (m) and inserting in lieu thereof "1,719";

(14) by striking out "$1,888" in subsection (n) and inserting in lieu thereof "$1,954";

(15) by striking out "$2,111" each place it appears in subsections (o) and (p) and inserting in lieu thereof "$2,184";

(16) by striking out "$906" and "$1,350" in subsection (r) and inserting in lieu thereof "$937" and "$1,397", respectively;

(17) by striking out "$1,357" in subsection (s) and inserting in lieu thereof "1,404";

(18) by striking out "$262" in subsection (t) and inserting in lieu thereof "$271".

(b) The Administrator of Veterans' Affairs may adjust administratively, consistent with the increases authorized by this section, the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85-857 who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

RATES OF ADDITIONAL COMPENSATION FOR DEPENDENTS

SEC. 102. Section 315(1) is amended--

(1) by striking out "$74" in clause (A) and inserting in lieu thereof "$76";

(2) by striking out "$124" and "$40" in clause (B) and inserting in lieu of thereof "$128" and "$41", respectively;

(3) by striking out "$50" and "$40" in clause (C) and inserting in lieu thereof "$51" and "$41", respectively;

(4) by striking out "$60" in clause (D) and inserting in lieu thereof "$62";

(5) by striking out "$134" in clause (E) and inserting in lieu thereof "$138"; and

(6) by striking out "$112" in clause (F) and inserting in lieu thereof "$115".

CLOTHING ALLOWANCE FOR CERTAIN DISABLED VETERANS

SEC. 103. Section 362 is amended by striking out "$327" and inserting in lieu thereof "$338".

TITLE II--DEPENDENCY AND INDEMNITY COMPENSATION RATE INCREASES

RATES OF DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING SPOUSES

SEC. 201. (a) Subsection (a) of section 411 is amended to read as follows:

"(a) Dependency and indemnity compensation shall be paid to a surviving spouse, based on the pay grade of the person upon whose death entitlement is predicated, at monthly rates set forth in the following table:

"Pay grade	Monthly rate	"Pay grade	Monthly rate
E--1	$460	W--4	$661
E--2	$475	O--1	$582
E--3	$486	O--2	$602
E--4	$517	O--3	$643
E--5	$531	O--4	$681
E--6	$544	O--5	$751
E--7	$571	O--6	$845
E--8	$602	O--7	$914
E--9	$629[1]	O--8	$1,002
W--1	$582	O--9	$1,077
W--2	$606	O--10	$1,178[2]
W--3	$624		

(b) Subsection (b) of such section is amended by striking out "$51" and inserting in lieu thereof "52".

(c) Subsection (c) of such section is amended by striking out "$134" and inserting in lieu thereof "$138".

(d) Subsection (d) of such section is amended by striking out "$66" and inserting in lieu thereof $68.

"[1] If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $677.

"[2] If the veteran served as Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, or Commandant of the Marine Corps, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $1,264."

RATES OF DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN

SEC. 202. Section 413 is amended--

(1) by striking out "$225" in clause (1) and inserting in lieu thereof "$232";

(2) by striking out "$323" in clause (2) and inserting in lieu thereof "$334";

(3) by striking out "$417" in clause (3) and inserting in lieu thereof "$431"; and

(4) by striking out "$417" and "$84" in clause (4) and inserting in lieu thereof "$431" and "$86", respectively.

RATES OF SUPPLEMENTAL DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN

SEC. 203. Section 414 is amended--

(1) by striking out "$134" in subsection (a) and inserting in lieu thereof "$138";

(2) by striking out "$225" in subsection (b) and inserting in lieu thereof "$232"; and

(3) by striking out "$114" in subsection (c) and inserting in lieu thereof "$117".

TITLE III--EFFECTIVE DATE

SEC. 301. The amendments made by titles I and II of this Act shall take effect on April 1, 1984.

Office of the
Administrator
of Veterans Affairs

Washington DC 20420

Veterans
Administration

JULY 6 1983

Honorable Alan K. Simpson
Chairman, Committee on
Veterans' Affairs
United States Senate
Washington, D.C. 20510

Dear Mr. ~~Chairman:~~ Al,

I am pleased to respond to your June 21, 1983, request for the views of the Veterans Administration (VA) on S. 1470 a bill, "To amend the Act of March 3, 1911 (36 Stat. 1077, chapter 211), to remove restrictions on the use of the Springfield Confederate Cemetery, Springfield, Missouri." The VA supports the proposed draft legislation for the following reasons.

The bill, if enacted, would remove restrictions imposed by statute which permit burial of only Confederate veterans at the Springfield Confederate Cemetery. These restrictions were also included in the 1911 deed by which the Confederate Cemetery Association of Missouri ("Association") conveyed that cemetery to the United States. Upon enactment of this bill, an agreement between the VA and the Association to modify the deed restrictions to permit burial of all eligible veterans will be executed.

The original statutory restrictions permitting burial of only Confederate veterans were included in the Act of March 3, 1911, ch. 211, 36 Stat. 1077 (amended 1957), which authorized the transfer of the Springfield Confederate Cemetery to the United States. The burial restrictions on a portion of the cemetery were lifted by deed in 1948 and by legislation in 1957. See Act of May 31, 1957, Public Law No. 85-41, 71 Stat. 43. The proposed bill would remove the statutory burial restrictions on the remaining portion of the cemetery.

The VA supports enactment of this bill as it will alleviate a shortage of burial spaces being experienced at the Springfield National Cemetery. Present available grave sites at Springfield are expected to be expended about March 1984. Additional grave sites from development of land donated by the city of Springfield will become available about July 1984.

By permitting burial of eligible veterans at the Springfield Confederate Cemetery, an additional 463 grave sites would be made available. This will ensure uninterrupted delivery of burial benefits to eligible veterans and their dependents.

There is no cost impact associated with enactment of this bill. There will be no development cost as the affected grave sites are fully platted and developed. There would be no additional operating costs as the VA is already maintaining the area.

We were advised by the Office of Management and Budget in regard to a report to the Chairman of the House Committee on Veterans' Affairs, on H.R. 2383, 98th Congress, a bill identical with S. 1470, that there was no objection to the presentation of that report from the standpoint of the Administration's program.

Sincerely,

Harry

HARRY N. WALTERS
Administrator

Office of the
Administrator
of Veterans Affairs

Washington DC 20420

Veterans
Administration

JUNE 22 1983

Honorable George H. Bush
President of the Senate
Washington, D.C. 20510

Dear Mr. President:

There is transmitted herewith a draft bill "To amend title 38, United States Code, to expand the scope of the membership of the Special Medical Advisory Group." We request that it be introduced so that it may be considered for enactment.

The Special Medical Advisory Group (SMAG) was created by Congress in 1946 (Public Law No. 293) to advise the Administrator and the Chief Medical Director "relative to the care and treatment of disabled veterans, and other matters pertinent to DM&S." SMAG's original membership was to be composed of "medical and allied scientific professions." Subsequent legislation expanded the scope of the committee's membership. Section 4112(a) of title 38, United States Code, now provides that SMAG is to be "composed of members of the medical, dental, podiatric, optometric, and allied scientific professions and a disabled veteran," (Public Law No. 89-795, section 109(a)(3); Public Law No. 94-581, subsection 110(8), 209(b)(3); Public Law No. 96-151, section 305).

The environment of American medicine as well as the VA health care system has changed dramatically since SMAG was created. Since 1946, major and complex advances in medical technology and treatment modalities and knowledge of diseases have occurred. We have also experienced the advent of public health care financing, greater regulation of the health care industry, major changes in national health planning directives and increased consumer involvement in health care decision making. The management of a major national health care delivery system in this environment certainly must draw upon a wide variety of professional expertise. There is a similar need for professional diversity in the composition of a special medical advisory committee. It no longer suffices to limit such a committee's membership to health care providers and members of "allied scientific professions." The language of section 4112(a) does not appear to provide for the breadth of membership needed to adequately consider the spectrum of issues that currently confront the VA's Department of Medicine and Surgery.

Honorable George H. Bush

By authorizing the selection to SMAG of individuals "deemed by the Chief Medical Director to have experience pertinent to the mission of the Department of Medicine and Surgery," the draft bill would allow the VA greater latitude in finding well-experienced personnel for the committee and facilitate that committee's accomplishing the important role envisioned by the Congress. No additional cost would result from enactment of the proposed bill.

The Office of Management and Budget advises that there is no objection to the submission of the draft bill to the Congress from the standpoint of the Administration's program.

Sincerely,

Everett Alvarez

Deputy Administrator - For

HARRY N. WALTERS
Administrator

Enclosure

95

3

98th CONGRESS
1st SESSION

A BILL

To amend title 38, United States Code, to expand the scope of ~~the~~ membership of the Special Medical Advisory Group.

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, that section 4112(a) is amended by deleting "allied scientific professions" and inserting in lieu thereof "others deemed by the Chief Medical Director to have experience pertinent to the mission of the Department of Medicine and Surgery".

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SECTION BY SECTION ANALYSIS

The proposed bill would amend section 4112(a) to expand the scope of the membership of the Special Medical Advisory Group.

Section 4112(a) currently provides that its membership shall include medical, dental, podiatric, optometric, a disabled veteran, and allied scientific professions. The statutory language does not appear to authorize the appointment to the committee of members of many professions with expertise which would be helpful to its functioning.

The proposed bill would amend section 4112(a) to allow the Director to appoint "others deemed by the Chief Medical Director to have experience pertinent to the mission of the Department of Medicine and Surgery." Such an amendment would grant the Chief Medical Director needed flexibility to provide SMAG a broad membership to consider the spectrum of issues affecting VA's Department of Medicine and Surgery.

CHANGES IN EXISTING LAW MADE BY DRAFT BILL

Changes in existing law made by this bill are shown as follows (existing law proposed to be omitted is enclosed in brackets, new matter is underlined, existing law in which no change is proposed is shown in roman):

TITLE 38—UNITED STATES CODE

* * * * * * *

PART V—BOARDS AND DEPARTMENTS

* * * * * * *

CHAPTER 73—DEPARTMENT OF MEDICINE AND SURGERY

* * * * * * *

Subchapter I—Organization; General

* * * * * * *

§ 4112. Special medical advisory group and other advisory bodies

(a) The Administrator shall establish a special medical advisory group composed of members of the medical, dental, podiatric, optometric, and [allied scientific professions] and a disabled veteran, nominated by the Chief Medical Director, whose duties shall be to advise the Administrator, through the Chief Medical Director, and the Chief Medical Director direct, relative to the care and treatment of disabled veterans, and other matters pertinent to the Department of Medicine and Surgery. The special medical advisory group shall meet on a regular basis as prescribed by the Administrator and, not later than February 1 of each year, shall submit to the Administrator and the Congress a report on its activities during the preceding fiscal year. The number, terms of service, pay, and allowances to members of such advisory group shall be in accord with existing law and regulations.

others deemed by Chief Medical Director to have experience pertinent to the mission of the Department of Medicine & Surgery.

* * * * * * *

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Office of the
Administrator
of Veterans Affairs

Washington DC 20420

Veterans
Administration

JUNE 22 1983

Honorable George Bush
President of the Senate
Washington, D.C. 20510

Dear Mr. President:

Enclosed is a draft bill "To amend title 38, United States Code, to modify and improve the educational assistance programs administered by the Veterans' Administration, and for other purposes." I request that this measure be introduced and promptly enacted.

This measure would repeal or amend various provisions of title 38 which relate to providing vocational rehabilitation and education benefits to eligible veterans and other eligible individuals. It encompasses a wide array of proposed changes which we believe are necessary for increased effectiveness in the administration of these programs.

A section-by-section analysis of the draft measure setting forth the basis for each recommended change is also enclosed. None of the recommended revisions would result in any significant cost.

I urge that this proposal be introduced and given early favorable consideration by the Congress.

We have been advised by the Office of Management and Budget that there is no objection to the submission of this report to the Congress from the standpoint of the Administration's program.

Sincerely,

Everett

Deputy Administrator - For

HARRY N. WALTERS
Administrator

Enclosures

A BILL

To amend title 38, United States Code, to modify and improve the educational assistance programs administered by the Veterans' Administration, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) this Act may be cited as the "Omnibus Education Assistance Act of 1983".

(b) Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

SEC. 102. (a) Section 1508(h) is amended by--

(1) striking out "Notwithstanding any other provision of this title," and inserting in lieu thereof: "(1) Subject to the provisions of this subsection and section 1513(b) of this chapter,";

(2) striking out "(1)", "(2)", "(A)" and "(B)" and inserting in lieu thereof "(A)", "(B)", "(i)" and "(ii)", respectively; and

(3) inserting at the end thereof the following new paragraph:

"(2) Payment of a subsistence allowance to a hospitalized veteran, otherwise entitled under the provisions of this section, is limited to periods in which a veteran is in authorized leave status."

(b) Section 1513(b) is amended by inserting "in authorized leave status" after "veteran".

SEC. 103. Section 1602(1)(A) is amended by inserting immediately after "chapter 34 of this title" the following: "(except that a veteran who is eligible for chapter 34 benefits under the provisions of section 1652(a)(3) of this title may elect to receive benefits under this chapter in lieu of eligibility under such section)".

SEC. 104. (a) Section 1720 is amended to read as follows:

"§ 1720. Educational and vocational counseling

"The Administrator may, upon request, arrange for educational or vocational counseling for persons eligible for benefits under this chapter to assist such persons in selecting their educational, vocational, or professional objective and in developing their program of education."

(b) Section 1721 is amended by--

(1) striking out "finally";

(2) striking out clause (1);

(3) redesignating clauses (2), (3), (4), and (5) as clauses (1), (2), (3), and (4), respectively; and

(4) amending the catch line at the beginning to read as follows:

"§ 1721. Approval of application".

(c) The items relating to sections 1720 and 1721 in the table of sections at the beginning of chapter 35 are amended to read as follows:

"1720. Educational and vocational counseling.

"1721. Approval of application.".

SEC. 105. Section 1733(a) is amended by striking out "1732(a)" and inserting in lieu thereof "1691(b)(2)".

SEC. 106. Section 1781 is amended by--

(1) inserting "(a)" before "No educational"; and

(2) adding at the end thereof the following new subsection:

"(b) No person eligible for educational assistance or subsistence benefits under more than one program authorized by this chapter or chapter 31, 32, 34, or 35 of this title or under the programs established by (1) section 901 of the Department of Defense Authorization Act, 1981 (Public Law 96-342, 10 U.S.C. § 2141); (2) section 903 of the Department of Defense Authorization Act, 1981 (Public Law 96-342, 10 U.S.C. § 2141 note); or (3) the Hostage Relief Act of 1980 (Public Law 96-449, 5 U.S.C. § 5561 note), may be paid benefits concurrently for pursuit of the same program."

SEC. 107. (a) Section 1795(a) is amended by adding after clause (4) the following new clauses:

"(5) section 901 of the Department of Defense Authorization Act, 1981 (Public Law 96-342, 10 U.S.C. § 2141);

"(6) section 903 of the Department of Defense Authorization Act, 1981 (Public Law 96-342, 10 U.S.C. § 2141 note);

"(7) the Hostage Relief Act of 1980 (Public Law 96-449, 5 U.S.C. § 5561 note);".

(b) Section 1795(b) is amended by striking out "and (4)" and inserting in lieu thereof "(4), (5), (6), and (7)".

SECTION BY SECTION ANALYSIS OF DRAFT PROPOSAL

Section 101

Subsection (a) provides that the draft proposal may be cited as the "Omnibus Education Assistance Act of 1983."

Subsection (b) provides that all references contained in the measure, unless cited otherwise, shall refer to an amendment to, or repeal of, a section or other provision of title 38, United States Code.

Section 102

Subsection (a) would amend section 1508(h) of title 38, to limit the payment of subsistence allowance under the chapter 31 vocational rehabilitation program to veterans hospitalized at VA expense to periods in which the veteran is in an authorized leave status. This proposal is intended to clarify the purpose of the subsistence allowance payments during these hospitalization periods and to simplify administration of the program.

Currently, section 1508(h) provides that a veteran, pursuing a rehabilitation program while hospitalized at VA expense for 21 days or longer because of a service-connected disability (and who is therefore entitled to compensation at the rate payable under section 314(j) of title 38), shall be paid the greater of a subsistence allowance and his or her regular rate of disability compensation, or the amount of disability compensation paid under the provisions of section 314(j).

The proposed change is designed to mandate that if a veteran is not placed in authorized leave status, subsistence allowance will not be paid to such a veteran if he or she commences or continues in a rehabilitation program under chapter 31 while receiving inpatient care in a VA hospital, nursing home, or domiciliary facility, or any other hospital or medical facility at VA expense. Placement in authorized leave status during a period of hospitalization will generally be approved when the veteran's ability to participate in chapter 31 is not materially affected, and it is anticipated that he or she would be able to successfully continue the program after the period of hospitalization. The change proposed here should not generally alter the actual receipt of services and assistance.

Subsection (b) would make a concurrent change in section 1513(b) to reflect the requirement of the authorized leave status.

Section 103

Under current law, an individual who is eligible for chapter 34 (GI Bill) education benefits is barred from eligibility to participate in the chapter 32 (VEAP) program. There are, however, some individuals who qualify for chapter 34 benefits based upon the provisions of section 1652(a)(3) of title 38. This section provides that where an individual has served on active duty for training for a period prior to January 1, 1977, and at some time subsequent to such active duty for training serves for a consecutive period of 1 year or more on active duty, such individual is eligible for chapter 34 benefits.

Experience has shown that in some of these cases, these individuals have served a period of 4 to 7 months of active duty for training prior to January 1, 1977, and subsequent to December 31, 1976, they serve on active duty for a substantial period of time. Since they are potentially eligible for chapter 34 benefits for the period of time they serve on active duty for training, they are, therefore, not eligible to participate in VEAP.

The change proposed would give this individual the opportunity to elect to receive benefits under the chapter 34 program, or to elect to participate in the chapter 32 program. Since in many cases the chapter 32 participation would be more beneficial to the individual, we believe the individual should be given the opportunity to elect which benefit he or she wishes to receive.

Section 104

This section would rewrite section 1720 to remove the requirement that an educational plan be submitted by a parent or guardian on behalf of a child eligible to receive chapter 35 benefits.

Under present law, section 1720(a) now provides that the Administrator may, on request, arrange for educational or vocational counseling to help the parent or guardian, as well as the eligible child, in selecting and preparing a program of education for the eligible child. During or after this counseling, the parent or guardian is required to prepare an educational plan for the eligible child. The plan is signed by the parent or guardian and becomes a part of the application for educational assistance.

We believe there is no real need for an educational plan to be submitted. At its core, the educational plan is nothing more than enrollment data which would have to be furnished in any event as part of the process leading to the payment of educational benefits. As a result, it is our view that this provision may be eliminated.

The counseling which may be provided on request is equally applicable to spouses as well as children eligible under chapter 35. Therefore, the provisions of subsections (a) and (b) have been combined into one single section, and the heading for the section has been revised to reflect elimination of the need for the plan.

Section 105

This section would amend section 1733(a) to limit the payment of educational assistance for pursuit of high school or equivalency training to spouses and surviving spouses eligible under chapter 35. The proposal would provide that such individuals be paid the amount of their tuition and fees, or the full-time institutional rate, whichever is lesser. Under current law, such individuals are eligible for benefits based upon institutional rates.

In the enactment of Public Law 96-466, the Congress modified the payment provisions for veterans who are pursuing entitlement-free high school completion and equivalency certificate courses, but not for spouses and surviving spouses. This resulted in a disparity wherein veterans were limited to tuition and fees, or the institutional full-time rate, whichever is lesser, while spouses and surviving spouses continued to be paid the institutional rates.

Over the years, Congress has provided, wherever feasible, for veterans and chapter 35 beneficiaries to be treated on an equal basis. The new law resulted in a disparity between the payment basis for veterans and spouses. The change proposed here would eliminate this disparity and equalize the payment basis appropriately.

Section 106

This section would amend section 1781 to include a new subsection (b) barring a veteran or eligible person, entitled to education and training benefits under more than one program authorized under chapters 31, 32, 34, 35, or 36 of title 38, or eligible for benefits under the educational test programs established under sections 901 or 903 of the Defense Authorization Act, 1981, or the Hostage Relief Act of 1980, from receiving benefits concurrently under two programs for pursuit of the same program.

Under the Korean conflict GI Bill, provisions were included which barred concurrent payments under two or more education programs administered by the Veterans Administration which would represent a duplication of benefits paid from the Federal Treasury. A similar bar was enacted in the current GI Bill program in 1966.

When Public Law 91-219 was enacted in 1970, provisions limiting the payment of educational assistance under certain conditions were substituted for those barring duplicate benefits.

In the past 3 years, new programs have been enacted authorizing payment of educational benefits to individuals serving in the armed services or their dependents as well as to dependents of hostages held by foreign nations. Under current law, there is no statutory authority in title 38 which would prevent an individual having eligibility, for example, under our chapter 35 program and under one of the programs of the Departments of State or Defense cited above from being paid benefits concurrently under two programs for pursuit of the same program.

It is our view that authority should be placed in title 38 which would insure that such individuals are not paid benefits concurrently under those conditions.

This section would amend section 1795 to provide that those individuals who have eligibility under Section 901 or 903 of the Department of Defense Authorization Act, 1981, or the Hostage Relief Act of 1980 will be subject to the forty-eight month limitation imposed upon individuals with eligibility under two or more education programs administered by the VA.

Currently, section 1795 limits the aggregate period for which any person may receive assistance under two or more laws administered by the VA to a maximum of 48 months. The VA has been assigned the responsibility of administering the benefits payable to individuals under the 901, the 903, and the Hostage Relief Act programs.

We believe that inasmuch as some of those eligible under any one of these programs may also have eligibility under a VA education program, they should be subject to the forty-eight month limitation as well. This statutory amendment would accomplish that purpose.

ADDITIONAL VIEWS OF MR. CRANSTON

I am submitting these additional views in connection with an amendment I offered, on behalf of myself, Senator Specter and Senator Mitchell, that failed on a 6 to 6 tie vote during Committee consideration of S. 1388 on July 21, 1983. This amendment addressed the question of compensation for veterans exposed during their service in Vietnam to dioxin (as in Agent Orange or other herbicides) and for veterans exposed during their service to ionizing radiation from a nuclear detonation, either during participation in the nuclear test program or while serving with the occupation forces in Hiroshima or Nagasaki, Japan, following World War II.

Basic Purpose

The basic purpose of this amendment would be to require the VA to develop regulations, through an informal process allowing for public participation, for the adjudication of Agent Orange and radiation claims. In developing the regulations, the Administrator would be required to addreess specifically whether any presumptions as to service connection should be applied in the case of certain specified disabilities (described below). The disabilities that are specified in the amendment are ones as to which current scientific information provides a basis for a possible connection between the exposure and the disease. The Administrator's compliance with the required process, as well as any regulations issued by the Administrator, would be subject to judicial review thereby providing an independent check on the fairness and results of the process.

This amendment incorportes an approach that is derived from S. 786 (introduced by Senator Pressler on March 11, 1983), which would establish, in the case of dioxin exposure, presumptions of service connection for three diseases and S. 374 (introduced by Senator Specter on February 2, 1983) and S. 991 which I introduced on April 6, 1983. S. 991 would require that the same type of process proposed for dioxin claims be followed for radiation claims as well.

Text of Amendment

The text of the amendment follows:

Sec. . (a) Section 312 is amended by adding at the end the following new subsection:

"(c) For the purposes of section 310 of this title and subject to the provisions of section 313 of this title, the following diseases developed to a degree of disability of 10 per centum or more shall, subject to a specification pursuant to section 354(c)(2) of this title, be considered to have been incurred in or aggravated by such service, notwithstanding that there is no record of such disease during the period of service:

"(1) In the case of a veteran who served in the Republic of Vietnam during the Vietnam era and who, during such service, was exposed to a herbicide containing dioxin—

"(A) a soft tissue sarcoma, if so developed within 30 years from the date of last departure from the Republic of Vietnam during such service,

"(B) porphyria cutanea tarda, is so developed within one year from the date of last departure from the Republic of Vietnam during such service, or

"(C) chloracne if so developed within one year from the date of last departure from the Republic of Vietnam during such service.

"(2) In the case of veteran who, in connection with such veteran's participation in the test of a nuclear device or with the American occupation of Hiroshima or Nagasaki, Japan, prior to July 1, 1946, was exposed to ionizing radiation from the detonation of a nuclear device during such veteran's service—

"(A) a malignancy,

"(B) polycythemia vera, or

"(C) hypothyroidism or a thyroid nodule.

"(3) In the case of a veteran described in paragraph (1) or (2) of this subsection, any other disease that is specified in a regulation prescribed by the Administrator pursuant to section 354(c) of this title as being presumed to have been incurred in or aggravated by the service of veterans who were so exposed.".

(b) Section 354 is amended—

(1) in subsection (b)—

(A) by striking out all beginning with "In" through "expedition, the" and inserting in lieu thereof "The"; and

(B) by striking out "such service" the first place it occurs and inserting in lieu thereof "a veteran's service on active duty"; and

(2) by adding at the end the following new subsection:

"(c)(1)(A) The Administrator, in accordance with paragraphs (2) and (3) of this subsection, shall prescribe regulations to—

"(i) establish guidelines, standards, and criteria for the resolution of claims for benefits under laws administered by the Veterans' Administration where the benefit eligibility criteria include a requirement that a death or disability be service connected and the claim of service connection is based on a veteran's exposure during service—

"(I) in the Republic of Vietnam during the Vietnam era, to a herbicide containing dioxin, or

"(II) in connection with such veteran's participation in the test of a nuclear device or with the American occupation of Hiroshima or Nagasaki, Japan, prior to July 1, 1946, to ionizing radiation from the detonation of a nuclear device; and

"(ii) ensure that subsection (b) of this section is given full effect with respect to such claims.

"(B) Promptly after each occasion on which the Administrator prescribes or amends the substance of such regulations, the Administrator—

(i) shall determine whether, in light of such guidelines, standards, and criteria and other pertinent information, any legislative action related to the subject matter of such regulations is needed, and

(ii) if the Administrator determines that any such action is needed, shall submit to the Committees on Veterans' Affairs of the House of Representatives and the Senate a report containing the Administrator's recommendations for such legislative action, including any proposed amendments to section 312 of this title, as the Administrator considers appropriate.

"(2) In the regulations required to be prescribed by paragraph (1)(A) of this subsection, the Administrator—

"(i) shall specify, based on medical and scientific evidence and after resolving every reasonable doubt in favor of the claimants, (I) which of the diseases listed in paragraphs (1) and (2) of section 312(c) of this title (with any modifications of the maximum periods of time specified in such section) will be presumed to have been incurred in or aggravated during service, (II) which of such diseases will not be so presumed, and (III) which other diseases (and any maximum periods of time after departure from a specified geographic area or the date of separation from service within which any such other disease must have developed to a degree of disability of 10 per centum or more), will be presumed to have been incurred in or aggravated during service;

"(ii) shall specify any other presumptions (including any presumptions regarding exposure and service connection) to be applied to the resolution of such claims; and

"(iii) may not include a requirement that a veteran provide any information regarding such veteran's service in the Armed Forces other than the information included in such veteran's military service records.

"(3)(A) The Administrator shall develop the regulations required by paragraph (1)(A) of this subsection and any amendments to such regulations through a public review and comment process in accordance with the provisions of section 553 of title 5 and with such procedures, in addition to those required by such provisions, as the Administrator considers appropriate to enable persons other than Veterans' Administration personnel to submit evidence, proposals, and arguments. Such process shall include (i) a public hearing, which shall be announced in the Federal Register not less than thirty days in advance of its commencement, shall be commenced not earlier than sixty days after proposed regulations or proposed amendments are published in the Federal Register, and shall afford interested parties an opportunity to make oral presentations and to comment on oral and written submissions from other parties, and (ii) consultations by the Administrator with an advisory committee appointed by the Administrator and composed of individuals with a demonstrated interest and experience relating to the subject matter of the proposed regulations or amendments. The period for public review and comment shall be completed not later than 90 days after proposed regulations or proposed amendments are published in the Federal Register.

"(B)(i) Not later than 120 days after the date of the enactment of this subsection, the Administrator shall develop and publish in the Federal Register a proposed version of the regulations required by paragraph (1)(A) of this subsection.

"(ii) Not later than 330 days after such enactment date, the Administrator shall publish in the Federal Register the final regulations (together with explanations of the bases for the guidelines, standards, presumptions, and criteria contained therein) required by such paragraph.

"(C) Notwithstanding section 211(a) of this title or any other provision of law, the Administrator's compliance with the provisions of, and any regulations prescribed pursuant to, this subsection shall be subject to judicial review in accordance with the provisions of chapter 7 of title 5.".

(c) Paragraph (3) of section 307(b) of the Veterans' Health Programs Extension and Improvement Act of 1979 (Public Law 96-151; 93 Stat. 1097), as added by section 401(b)(2) of the Veterans' Health Care, Training, and Small Business Loan Act of 1981 (Public Law 97-72; 95 Stat. 1061), is amended to read as follows:

> "(3) Immediately after the submission of each report under paragraph (2), the Administrator, based on the results described in such report and the comments and recommendations included therein and any other available pertinent information, shall evaluate the need for any amendments to regulations prescribed pursuant to paragraph (1) of subsection (c) of section 354 of title 38, United States Code, for the resolution of claims for service connection based on the exposure specified in subparagraph (A)(i)(I) of such paragraph. To the extent that the Administrator determines that any amendments to such regulations are needed, the Administrator, not later than ninety days after such submission, shall develop and publish in the Federal Register, for public review and comment, proposed amendments to such regulations."

Description of Provisions

Subsection (a) of the amendment would amend section 312 of title 38, which lists various diseases as to which presumptions of service connection apply, by adding a new subsection (c) which would mandate the VA to address the justification for establishing certain presumptions relating to certain diseases in the cases of veterans exposed to dioxin or radiation. The diseases listed in the case of veterans exposed to dioxin during service in Vietnam—soft tissue sarcoma, porphyria cutanea tarda (PCT), and chloracne—are the same ones included in S. 786. However, maximum time limits within which the disease must have developed would be specified for each disease—thirty years from departure from Vietnam in the case of soft tissue sarcoma and within one year from departure from Vietnam for both PCT and chloracne. These time limits are included to reflect the testimony before the Committee at its June 15 and 22, 1983, hearings. With specific reference to PCT and chloracne, the testimony was that these two diseases will show up initially, if at all, shortly after exposure to dioxin.

For veterans exposed to radiation, the diseases that are listed include any malignancy, polycythemia vera, and hypothyroidism or a thyroid nodule. Because there are substantial latency periods related to each of these diseases and because the science as to the length of such periods is not clear, no time limits are included. These diseases are included on the basis of the scientific literature related to the effects of exposure to radiation and the experience in litigation and legislation related to residents of the Marshall Islands who were exposed to radiation as a result of the nuclear test program in the Pacific.

In addition to the diseases that are specifically listed in the proposed amendment to section 312, the amendment would include a provision to allow the Administrator, by regulation, to add presumptins of service connection for additional diseases with reference to either type of exposure. The intention, as recommended by the Disabled American Veterans in testimony before the Committee, is that the VA when dealing with dioxin exposure consider various diseases as set forth in a World Health Organization report which was cited in a 1979 GAO report.

The diseases listed would be presumed to be service connected for compensation purposes if the Administrator, pursuant to the provisions included in subsection (b) of this amendment, discussed below, so specifies in regulations. In this way, a framework of possible, specific presumptions would be created but the specific presumptions would take effect only following a rulemaking procedure (the design of which is derived with simplifying modifications from S. 374 and S. 991) and only to the extent specified by the Administrator on the basis of that procedure.

Subsection (b) would amend section 354 of title 38, which relates to general VA compensation provisions, to add a new subsection (c) mandating the VA to follow a public regulatory process for dealing with dioxin and radiation claims. As noted, the provisions in this subsection are derived from S. 374 and S. 991.

This subsection would also amend present section 354(b) to clarify that the VA, in benefit cases, is to resolve every reasonable doubt in favor of the claimant, not just in cases involving veterans "who engaged in combat with the enemy" as stated in current law. It is VA policy to resolve such doubts in favor of all claimants, and there is no reason for the "combat" limitation in current law that would be eliminated by this provision.

Under the regulatory process that this subsection would establish with respect to claims based on certain dioxin and radiation exposure, the Administrator would be required to issue regulations that would "establish guidelines, standards, and criteria" for the resolution of these claims. These regulations would be developed through a specifically tailored, informal rulemaking process that would include a public hearing with an opportunity for interested parties to make oral presentations and to comment on submissions from other parties. Also, the Administrator would be required to consult with an advisory committee before issuing the final regulations. This informal process was proposed in lieu of the formal rulemaking procedures provided for in S. 374 and S. 991, which were subject to significant criticism by the VA and the Administrative Conference of the United States at the Committee's June 22 hearing. I believe that the proposed "hybrid" approach (which proceeds as the Administrative Conference suggested) will result in the degree of public participation desired while avoiding the problems of delay and undue complexity that were mentioned at the Committee hearing, such as Food and Drug Administration proceedings which the VA noted have taken from 2 to over 10 years to complete.

The rulemaking process would begin with the publication of proposed regulations not later than 120 days after the date of enactment of the subsection. The required public hearing would then have to be conducted at least 60 days after the proposed regulations are published and with at least 30 days' advance public notice. The total public review and comment period would not exceed 90 days. The Administrator would have to publish final regulations within 120 days after the close of the public review and comment period. Thus, final regulations would have to be published within 330 days after the date of enactment.

The regulations developed through this process would be required to:

—specify the diseases listed in new subsection (c) of section 312 (as proposed to be added by subsection (a) of the amendment), as well as any others, as to which a presumption of service connection would apply (the Administrator's decision in this regard would be required to be based on "medical and scientific evidence after resolving every reasonable doubt in favor of the claimants") and also specify (on the same basis) the diseases listed in new subsection (c) of section 312 as to which the presumption would not apply;

—specify any other diseases that the Administrator determines should be presumed to be service connected in the case of veterans exposed to dioxin or radiation;

—modify or establish, as appropriate, periods of time within which the disease must be manifested after service;

—specify any other presumptions (such as those regarding exposure) to be applied to the resolution of dioxin and radiation claims; and

—not include any requirement that a veteran provide any information regarding his or her service beyond what is included in the veteran's service record (this provision is derived from S. 374).

Thus, as provided for in S. 374 and S. 991, the Administrator would be required to address the subjects of dioxin and radiation claims through a specified regulatory process with a clear opportunity for public participation. This process would also address expressly the diseases listed in S. 786 without entailing that Congress make final scientific judgments.

Also, as provided for in both S. 374 and S. 991, the Administrator's compliance with the rulemaking process and any regulations issued pursuant to that process would specifically be made subject to judicial review.

Subsection (c) would amend the public law which mandates the Agent Orange epidemiological study (Public Law 96–151 as amended by Public Law 97–72) to require the Administrator, not later than 90 days after submitting required annual reports on the progress and results of the study, to evaluate the regulations issued under the provisions of subsection (b) for possible amendment. To the extent the Administrator determines that any amendments to the regulations are required, the Administrator would be required by subsection (b) to follow the process established under that subsection. This requirement should ensure that, as the results of the epidemiological study become available, they will be taken into account in considering the need for revision of VA regulations.

Need for Legislative Action

The concerns about Agent Orange among Vietnam veterans, their families, and others seem to fall into three general categories—questions about the health effects of dioxin exposure, health care for current problems, and compensation. Likewise, veterans who were exposed to nuclear blast radiation—whose current circumstances are closely analogous to those of veterans who were exposed to Agent Orange—are concerned about the health effects of radiation exposure, health care, and compensation.

Information about health effects

First, what veterans want is valid information about their exposure and about the likely or possible health effects of that exposure on themselves and their families. Such information cannot be legislated. Rather, it must be painstakingly gathered and developed by the medical and scientific community. As far as I know, the only way to find direct information about the veterans, and particularly about their current health, is by studying them, such as is being done in the epidemiological study mandated with respect to Agent Orange by section 307 of Public Law 96-151. My support for such a study is longstanding. In February 1979, I urged then-President Carter to undertake a major study to gather the needed information. In July 1979, I renewed this recommendation with the Secretary of Health, Education, and Welfare Joseph Califano, specifically urging that Department to initiate the needed epidemiological study. In June 1979, I first introduced the legislation that became the study provision of Public Law 96-151. It is most ironic—a bitter irony for Vietnam veterans and their families—that now, almost four years after enactment of that law, the study seems finally to be going forward under the auspices of the Centers for Disease Control.

As to the need for study of the health effects of exposure to radiation from nuclear detonations, the Committee has reported (in section 601 of S. 578) on May 23, and the Senate has passed (in section 601 of H.R. 2920) on June 28, a provision I authored to mandate an epidemiological study of such effects.

Health care

With reference to the second area of concern—health care for current problems—section 102 of Public Law 97-72, which is based on a provision I authored, provided the VA with authority to provide health care for veterans exposed to Agent Orange for conditions not clearly caused by something other than their exposure. I remain deeply committed to seeing that this health care provision is properly implemented and, to the extent that there are specific instances where that is not the case, I want to know about and follow up on them. As the ranking minority member of the Committee and before 1981 as its Chairman, I have been aware of instances in which Vietnam veterans concerned about Agent Orange have expressed general dissatisfaction with VA health care and their access to care under Public Law 97-72. However, I no longer receive many complaints from individual veterans about specific instnaces of problems receiving needed medical care from the VA. In the relatively few instances where I have received such specific complaints, it has generally been fairly easy to resolve the problem.

The Public Law 97-72 provision applies as well to veterans exposed to radiation and, although the VA was much slower to implement the new authority in this area as Congress intended—it took us a full seventeen months of repeated prodding before the VA finally issued proper regulations to carry out this authority—the situation today in terms of VA health care for veterans exposed to radiation is the same as described above for veterans exposed to Agent Orange.

Thus, in two of the three areas of concern about Agent Orange—information and health care—I do not believe there is any basis for further legislative activity by the Committee at this point. Our tasks should be to pursue the enactment of the radition study, continue our very close oversight work, and ensure that adequate funds are appropriated to carry out the needed studies. It is in the third area—compensation—where I believe there is a current need for legislative action.

Compensation

Such action—based on what has been proposed to date and as reflected in legislation referred to the Committee—can take one of two forms. Congress can either pass legislation listing diseases or disabilities as to which presumptions for VA compensation will apply in the cases both of veterans exposed to Agent Orange and of those exposed to radiation, or, as proposed in the amendment I offered with Senators Specter and Mitchell, address the process by which the VA handles claims for veterans based on such exposure.

I proposed the latter approach for two basic reasons. First, I believe that there is room for significant improvement in the way in which the VA compensation system handles claims based on Agent Orange or radiation exposure. Second, I am concerned that any approach requiring Congress to make decisions to include or not include in a list of presumptively service-connected disabilities various disabilities as to which there are fundamental differences of opinion among informed scientists is fraught with many difficulties and confronts the Congress with the task of making decisions that we simply are not well equipped to make at present.

With reference to the need for changes in the compensation system, the most important need that I have identified is for the VA to make clear, on-the-record determinations regarding the procedures and standards for handling Agent Orange and radiation claims, and then to take steps to publicize its decision on those claims and ensure that a consistent approach is followed throughout the VA. I also believe that the public—including of course those most directly affected, veterans who may have claims for compensation based on exposure to Agent Orange or radiation—should have a full opportunity to participate in the process of deciding how these claims should be handled and resolved. This is what the amendment we offered would accomplish and, in so doing, would help remedy the significant lack of clear guidance throughout the VA system on the resolution of Agent Orange and radiation claims.

This lack of clear guidance was evidenced by three recent events. First, at the Committee's April 6 oversight hearing on radiation issues, I described to VA witnesses a claim that involved a veteran with a conceded exposure of over 7 rem and a subsequent fatal leukemia. The widow's claim had been denied at the regional office on May 26, 1982, on the basis, in part, of an opinion from a VA Department of Medicine and Surgery official that "there does not appear to be a cause and effect relationship between [the veteran's] participation in nuclear device testing and his death from leukemia and it would be mere speculation to conclude otherwise."[1]

Second, contrasted with that result is the result in a case decided by the Board of Veterans' Appeals on March 11, 1983, in which a veteran with nuclear-test recorded exposure of less than 1 rem received a service-connected adjudication for leukemia. In reaching this result, the Board noted that "medical opinions have been expressed to the effect that the development of leukemia may not be disassociated from radiation exposure."

The very great divergence in result and in the apparent standard applied in these two cases both of which involve veterans exposed to radiation who later developed leukemia, is inexplicable to me.

Third, in the Agent Orange area, testifying before a House Veterans' Affairs Subcommittee on April 26, 1983, Administrator Harry Walters stated, "If a consensus of the medical community finds with reasonable medical certainty that exposure [to Agent Orange] causes disabilities, I will insure that our veterans are fairly compensated for these disabilities." As I noted in my letter to the Administrator, dated June 3, which is appended to these views and as to which I did not receive a response until September 21, 1983, his statement seems to suggest that the VA's current standard for adjudicating Agent Orange claims involve a three-part test—a consensus of the medical community, reasonable medical certainty, and a finding of causation. Not only is each part of such a standard difficult to square with current law and regulations, but it stands in marked contrast to the way in which radiation-related claims are handled, as I just noted.

The Administrator's reply, dated September 20, 1983, which is also appended to these views, further confuses the issue of what standard the agency does or should apply in these cases. It mentions what seem to be at least two additional standards ("credibly demonstrated" and "grounded in valid scientific evidence that exposure can in fact cause delayed adverse health effects"). Moreover, in the final paragraph of his letter, the Administrator (after misconstruing what I said regarding causation) sets forth a novel, inflexible description of the role of causation. He states that a disease "first evidence after service (and after any applicable presumptive period) may be linked to service *only if* it can be connected to some causative event that occurred then [*sic*]." (Emphasis added.) Although this may accurately describe current VA practice, I have doubts that such an all-encompassing statement accurately characterizes the law. As with his other statements regarding service connection, this statement does not reflect the provisions of title 38 of the United States Code or VA regulations.

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[1] Despite my having called this case to the attention of top VA officials on April 6 and repeatedly since then, as of September 19, 1983, the VA has still not managed to reverse its ill-precedented negative determination in this case.

Thus, there are what could be viewed as five different standards for the adjudication of service-connected disability compensation claims based on in-service exposure to a hazardous substance or phenomenon—one standard enunciated by the VA's Department of Medicine and Surgery and relied upon by the VA's Department of Veterans' Benefits, a second enunciated by the Board of Veterans' Appeals, and three more by the Administrator himself.

The present lack of consistency of results and criteria in the claims adjudication area makes it understandably difficult for those served by the VA to trust the fairness of the agency's processes. Our amendment—by requiring the VA to set forth its presumptions, criteria, and standards in a public-participatory rulemaking process—would go a long way toward remedying the current situation. Indeed, the Administrator's recent letter convinces me more than ever of the need for the enactment of our amendment in order to require the agency to specify definitively, in such a process and subject to judicial review, what the rules will be in this area.

Unless and until the Executive Branch has focused more intensively than it has on the issues related to Agent Orange and radiation compensation—including questions of degree and type of exposure and the likely or possible health effects of such exposure—in a fact-finding and policy-making process in which it is forced to consider all relevant information and viewpoints and make firm reasoned decisions on the record, the Congress should not attempt to enact answers to the highly technical questions that are involved. I believe that the agency with the responsibility and resources to make the scientific, medical, and policy judgements involved should first be required to come to grips with and resolve the key issues, and I want to ensure that it does.

By providing for agency action in a public process followed by the opportunity for judicial review, our amendment would place debate on these various difficult issues in the most appropriate forum at this time with a full opportunity for participation by interested members of the public.

Conclusion

I believe that the proposed amendment, by melding key provisions from S. 786 with the requirements in S. 374 and S. 991 relating to the appropriate VA regulatory process, represents a fair, appropriate, and consensual approach to the very difficult issues involved in dioxin claims as well as in radiation claims. By listing certain diseases, the measure recognizes the view held by some that there may be sufficient scientific and medical evidence to support a presumption of service connection at this time. However, the measure would place the responsibility, in the first instance, for making a decision on those diseases, as well as on how to proceed generally in the area of compensation for dioxin and radiation exposure, on the entity—the VA—that can best marshall needed technical expertise, and would require the VA to carry out this responsibility through a process that allows for significant public involvement and judicial review.

Thus, I was very disappointed that the Committee, on a 6 to 6 vote, failed to adopt this amendment. I intend to pursue this matter further when S. 1388 comes before the Senate. I hope my colleagues will join with us at that time and support our efforts to prompt affirmative action on the very difficult question of providing compensation to these veterans who were exposed to dioxin or radiation during their service.

ALAN CRANSTON.

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United States Senate
COMMITTEE ON VETERANS' AFFAIRS
WASHINGTON, D.C. 20510

June 3, 1983

Honorable Harry N. Walters
Administrator of Veterans' Affairs
810 Vermont Avenue, N.W.
Washington, D.C. 20420

Dear Harry,

I am writing to express my concern about, and to seek clarification of, certain testimony you presented to an April 26, 1983, hearing before the House Veterans' Affairs Subcommittee on Compensation, Pension, and Insurance on H.R. 1961, legislation that would establish presumptions of service connection for certain disabilities of Vietnam veterans. Specifically, I am concerned about the following statement on page 6 of your prepared remarks: "If a consensus of the medical community finds with reasonable medical certainty that exposure [to Agent Orange] causes disabilities, I will insure that our veterans are fairly compensated for these disabilities."

This statement seems to suggest that the current standard for adjudicating Agent Orange claims involves a three-part test: a consensus of the medical community, reasonable medical certainty, and causation. Each part seems difficult to square with current law and regulations.

Under section 3.102 of title 38, Code of Federal Regulations (CFR), claims of service connection must be granted "[w]hen, after careful consideration of all procurable and assembled data, a reasonable doubt arises regarding service origin ...." This "reasonable doubt rule" is to be applied where "the evidence does not satisfactorily prove or disprove the claim ...." The regulation also requires that there be "evidence sufficient to justify a belief in a fair and impartial mind" that the "claim is well grounded" and that the evidence must, at a minimum, raise a "substantial doubt" and not just "pure speculation or remote possibility". Even these latter requirements are much less onerous than the burdens of showing a consensus of the medical community and reasonable medical certainty would be.

Regarding the issue of causation, I would note that the provisions of title 38, United States Code, defining the circumstances under which a disability is to be considered service connected do not use the concept of causation. Rather, under section 101(16) of title 38, which defines the term "service-connected", section 105(a), which describes when an injury or disease will be deemed to have been incurred "in line of duty", and section 310, which establishes the criteria for entitlement to compensation, the basic issue is whether

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the disease or injury involved was incurred "during active military, naval, or air service." I am not aware of any requirement in title 38 that the disease or injury be shown to have been caused by service or by any particular event occurring during service. Likewise, under VA regulations, proof of causation is not required; for example, under section 3.303(a) of title 38, CFR, service connection generally is established when the facts show that the disease or injury "was incurred coincident with service in the Armed Forces."

Thus, I hope that you will provide clarification of your testimony in light of the pertinent statutory and regulatory provisions. I would also appreciate receiving any further information you can provide regarding the agency's standards for adjudicating Agent Orange cases. If you agree with the concerns I have expressed, I would also appreciate your taking steps to correct any misimpression that might have resulted from your earlier testimony.

As always, I very much appreciate your cooperation.

With warm regards,

Cordially,

Alan

Alan Cranston
Ranking Minority Member

cc: Ms. Dorothy L. Starbuck
Dr. Donald L. Custis
John P. Murphy, Esquire
Kenneth E. Eaton, Esquire

Office of the
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Washington DC 20420

Veterans
Administration

SEPTEMBER 20 1983

Honorable Alan Cranston
Ranking Minority Member
Committee on Veterans' Affairs
United States Senate
Washington, D.C. 20510

Dear Senator Cranston:

I am pleased to have this opportunity to clarify a misunderstanding you obviously have concerning remarks I made before the House Subcommittee on Compensation, Pension and Insurance several weeks ago.

That hearing concerned H.R. 1961, which would create presumptions in law with respect to veterans who served in Southeast Asia during the Vietnam era. It provides that soft-tissue sarcomas, porphyria cutanea tarda (PCT) or chloracne becoming manifest at any time after such service would be presumed service incurred or aggravated. As section 2 of the bill clearly shows, it is premised on the belief that these disorders may be caused by exposure to phenoxy herbicides and/or dicxin in service; it would create a presumption of causation.

As I stated on April 26, our objection to the bill is essentially twofold. First, if exposure to these or any other substances in service were to cause chloracne or PCT, these ailments would become manifest very near in time to exposure. A lifelong post-service presumptive period is inappropriate for what would be acute effects.

Second, there is, as yet, nothing approaching a consensus that phenoxy herbicides and/or dioxin can induce soft-tissue sarcomas or other delayed adverse health effects in humans. Hence, there currently is not justification for a presumption in law that such a relationship exists.

The provisions of H.R. 1961 differ from the presumptions regarding chronic diseases generally in 38 U.S.C. § 312(a). The latter are merely presumptions that, given a disease's proximity to service separation, its pathogenesis was in service. The presumptions proposed in H.R. 1961, limited as they are to veterans who may have been exposed to defoliants, are that exposure causes diseases that first appear years later--delayed effects. They are much more like the presumptions regarding ex-POW's in 38 U.S.C. § 312(b), which are premised on evidence that privations of internment can cause health problems in later life.

Should delayed effects of exposure to these defoliants ever be credibly demonstrated, we would issue appropriate rules regarding claims adjudication. It was to this issue that I directed the remarks you quoted in your letter of June 3. I am certain you agree with me that any such VA regulations should be grounded in valid scientific evidence that exposure can in fact cause delayed adverse health effects in humans.

Finally, you indicate issues of causation should not come into play in our claims adjudication. I cannot agree. A disease first evidenced after service (and after any applicable presumptive period) may be linked to service only if it can be connected to some causative event that occurred then. Asbestosis is a good example; was there exposure to asbestos in service that could reasonably be considered causative? The same applies with respect to claims based upon possible delayed effects of ionizing radiation. In cases involving alleged delayed effects of exposure to toxic agents in service, findings regarding causation are not only relevant but often dispositive.

Sincerely,

Harry N. Walters

HARRY N. WALTERS
Administrator

Changes in Existing Law Made by S. 1388 as Reported

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

TITLE 38—UNITED STATES CODE

* * * * * * *

PART II—GENERAL BENEFITS

* * * * * * *

CHAPTER 11—COMPENSATION FOR SERVICE-CONNECTED DISABILITY OR DEATH

* * * * * * *

Subchapter II—Wartime Disability Compensation

* * * * * * *

§ 312. Presumptions relating to certain diseases and disabilities

(a) * * *

* * * * * * *

(b) For the purposes of section 310 of this title and subject to the provisions of section 313 of this title, in the case of a veteran who is a former prisoner of war and who was detained or interned for not less than thirty days, the disease of—

(1) avitaminosis,
(2) beriberi (including beriberi heart disease),
(3) chronic dysentery,
(4) helminthiasis,
(5) malnutrition (including optic atrophy associated with malnutrition),
(6) pellagra,
(7) any other nutritional deficiency,
(8) psychosis, **[**or**]**
(9) any of the anxiety states, *or*
(10) dysthymic disorder (or depressive neurosis),

which became manifest to a degree of 10 per centum or more after active military, naval, or air service shall be considered to have been incurred in or aggravated by such service, notwithstanding that there is no record of such disease during the period of service.

* * * * * * *

§314. Rates of wartime disability compensation

For the purposes of section 310 of this title—

(a) if and while the disability is rated 10 per centum the monthly compensation shall be **[**$62**]** *$64*;

(b) if and while the disability is rated 20 per centum the monthly compensation shall be **[**$114**]** *$118*;

(c) if and while the disability is rated 30 per centum the monthly compensation shall be **[**$173**]** *$179*;

(d) if and while the disability is rated 40 per centum the monthly compensation shall be **[**$249**]** *$258*;

(e) if and while the disability is rated 50 per centum the monthly compensation shall be **[**$352**]** *$364*;

(f) if and while the disability is rated 60 per centum the monthly compensation shall be **[**$443**]** *$459*;

(g) if and while the disability is rated 70 per centum the monthly compensation shall be **[**$559**]** *$579*;

(h) if and while the disability is rated 80 per centum the monthly compensation shall be **[**$648**]** *$671*;

(i) if and while the disability is rated 90 per centum the monthly compensation shall be **[**$729**]** *$754*;

(j) if and while the disability is rated as total the monthly compensation shall be **[**$1,213**]** *$1,255*;

(k) if the veteran, as the result of service-connected disability, has suffered the anatomical loss or loss of use of one or more creative organs, or one foot, or one hand, or both buttocks, or blindness of one eye, having only light perception, or has suffered complete organic aphonia with constant inability to communicate by speech, or deafness of both ears, having absence of air and bone conduction, the rate of compensation therefor shall be $62 per month for each such loss or loss of use independent of any other compensation provided in subsections (a) through (j) or subsection (s) of this section but in no event to exceed **[**$1,506**]** *$1,559* per month; and in the event the veteran has suffered one or more of the disabilities heretofore specified in this subsection, in addition to the requirement for any of the rates specified in subsections (l) through (n) of this section, the rate of compensation shall be increased by $62 per month for each such loss or loss of use, but in no event to exceed **[**$2,111**]** *$2,185* per month;

(l) if the veteran, as the result of service-connected disability, has suffered the anatomical loss or loss of use of both feet, or of one hand and one foot, or is blind in both eyes, with 5/200 visual acuity or less, or is permanently bedridden or so helpless as to be in need of regular aid and attendance, the monthly compensation shall be **[**$1,506**]** *$1,559*;

(m) if the veteran, as the result of service-connected disability, has suffered the anatomical loss or loss of use of both hands, or of both legs at a level, or with complications, preventing natural knee action with prostheses in place, or of one arm and one leg at levels, or with complications, preventing natural elbow and knee action with prostheses in place, or has suffered blindness in both eyes, having only light perception, or has suffered blindness in both eyes, rendering such veteran so helpless as to be in need of regular aid and attendance, the monthly compensation shall be [$1,661] *$1,719*;

(n) if the veteran, as the result of service-connected disability, has suffered the anatomical loss or loss of use of both arms at levels, or with complications, preventing natural elbow action with prostheses in place, has suffered the anatomical loss of both legs so near the hip as to prevent the use of prosthetic appliances, or has suffered the anatomical loss of one arm and one leg so near the shoulder and hip as to prevent the use of prosthetic appliances, or has suffered the anatomical loss of both eyes, or has suffered blindness without light perception in both eyes, the monthly compensation shall be [$1,888] *$1,954*;

(o) if the veteran, as the result of service-connected disability, has suffered disability under conditions which would entitle such veteran to two or more of the rates provided in one or more subsections (l) through (n) of this section, no condition being considered twice in the determination, or if the veteran has suffered bilateral deafness (and the hearing impairment in either one or both ears is service connected) rated at [60 per centum] *40 percent* or more disabling and the veteran has also suffered service-connected total blindness with 5/200 visual acuity or less, or if the veteran has suffered the anatomical loss of both arms so near the shoulder as to prevent the use of prosthetic appliances, the monthly compensation shall be [$2,111] *$2,185*;

(p) in the event the veteran's service-connected disabilities exceed the requirements for any of the rates prescribed in this section, the Administrator may allow the next higher rate or an intermediate rate, but in no event in excess of [$2,111] *$2,185.* In the event the veteran has suffered service-connected blindness, with 5/200 visual acuity or less and (1) has also suffered bilateral deafness (and the hearing impairment in either one or both ears is service connected) rated at no less than [40 per centum disabling,] *30 percent disabling, or service-connected total deafness in one ear,* the Administrator shall allow the next higher rate, or (2) has also suffered [service-connected total deafness in one ear, or] service-connected anatomical loss or loss of use of one hand or one foot, the Administrator shall allow the next intermediate rate, but in no event in excess of [$2,111] *$2,185.* In the event the veteran has suffered the anatomical loss or loss of use, or a combination of anatomical loss and loss of use, of three extremities, the Administrator shall allow the next higher rate or intermediate rate, but in no event in excess of [$2,111] *$2,185.* Any intermediate rate under this subsection shall be established at the arithmetic mean, rounded down to the nearest dollar, between the two rates concerned;

[(q)] * * *

(r) Subject to section 3203(e) of this title, if any veteran, otherwise entitled to compensation authorized under subsection (o) of this section, at the maximum rate authorized under subsection (p) of this section, or at the intermediate rate authorized between the rates authorized under subsections (n) and (o) of this section and at the rate authorized under subsection (k) of this section, is in need of regular aid and attendance, then, in addition to such compensation—

(1) the veteran shall be paid a monthly aid and attendance allowance at the rate of [$906] *$938*; or

(2) if the veteran, in addition to such need for regular aid and attendance, is in need of a higher level of care, such veteran shall be paid a monthly aid and attendance allowance at the rate of [$1,350] *$1,397*, in lieu of the allowance authorized in clause (1) of this subsection, if the administrator finds that the veteran, in the absence of the provision of such care, would require hospitalization, nursing home care, or other residential institutional care.

For the purposes of clause (2) of this subsection, need for a higher level of care shall be considered to be need for personal health-care services provided on a daily basis in the veteran's home by a person who is licensed to provide such services or who provides such services under the regular supervision of a licensed health-care professional. The existence of the need for such care shall be determined by a physician employed by the Veterans' Administration or, in areas where no such physician is available, by a physician carrying out such function under contract or fee arrangement based on an examination by such physician.

For the purposes of section 334 of this title, such allowance shall be considered as additional compensation payable for disability;

(s) If the veteran has a service-connected disability rate as total, and (1) has additional service-connected disability or disabilities independently ratable at 60 per centum or more, or, (2) by reason of such veteran's service-connected disability or disabilities, is permanently housebound, then the monthly compensation shall be [$1,357] *$1,404*. For the purposes of this subsection, the requirement of "permanently housebound" will be considered to have been met when the veteran is substantially confined to such veteran's house (ward or clinical areas, if institutionalized) or immediate premises due to a service-connected disability or disabilities which it is reasonably certain will remain throughout such veteran's lifetime.

(t)(1) If the veteran (A) is entitled to receive compensation at any rate provided for under subsections (a) through (i) of this section and compensation under subsection (k) of this section, (B) has suffered the loss or loss of use of an extremity as a result of a service-connected disability ratable at 40 per centum or more, and (C) has suffered the loss or loss of use of the paired extremity as a result of a non-service-connected disability, not the result of the veteran's own willful misconduct, that would be rated, if service-connected, at 40 per centum or more, the monthly rate of compensation payable to such veteran shall be increased by [$262] *$271*.

(2) If a veteran described in paragraph (1) of this subsection receive any money or property of value pursuant to an award in a judicial proceeding based upon or a settlement or compro-

mise of, any cause of action for damages for the non-service-connected disability described in such paragraph, the increase in the rate of compensation otherwise payable under this subsection shall not be paid for any month following a month in which any such money or property is received until such time as the total of the amount of such increase that would otherwise have been payable equals the total of the amount of any such money received and the fair market value of any such property received.

§ 315. Additional compensation for dependents

Any veteran entitled to compensation at the rates provided in section 314 of this title, and whose disability is rated not less than 30 per centum, shall be entitled to additional compensation for dependents in the following monthly amounts:

(1) If and while rated totally disabled and—

(A) has a spouse but no child, [$74] *$77*;

(B) has a spouse and one or more children, [$124] *$128* plus [$40] *$41* for each child in excess of one;

(C) has no spouse but one or more children, [$50] *$52* plus [$40] *$41* for each child in excess of one;

(D) has a parent dependent upon such veteran for support, then, in addition to the above amounts, [$60] *$62* for each parent so dependent;

(E) notwithstanding the other provisions of this paragraph, the monthly payable amount on account of a spouse who is (i) a patient in a nursing home or (ii) helpless or blind, or so nearly helpless or blind as to need or require the regular aid and attendance of another person, shall be [$134] *$139* for a totally disabled veteran and proportionate amounts for partially disabled veterans in accordance with paragraph (2) of this section; and

(F) notwithstanding the other provisions of this paragraph, the monthly payable amount on account of each child who has attained the age of eighteen years and who is pursuing a course of instruction at an approved educational institution shall be [$112] *$116* for a totally disabled veteran and proportionate amounts for partially disabled veterans in accordance with paragraph (2) of this section.

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Subchapter VI—General Compensation Provisions

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§ 362. Clothing allowance

The Administrator under regulations which the Administrator shall prescribe, shall pay a clothing allowance of [$327] *$338* per year to each veteran who because of disability which is compensable under the provisions of this chapter, wears or uses a prosthetic or orthopedic appliance or appliances (including a wheelchair) which the Administrator determines tends to wear out or tear the clothing of such a veteran.

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CHAPTER 13—DEPENDENCY AND INDEMNITY COMPENSATION FOR SERVICE-CONNECTED DEATHS

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Subchapter II—Dependency and Indemnity Compensation

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§411. Dependency and indemnity compensation to a surviving spouse

(a) Dependency and indemnity compensation shall be paid to a surviving spouse, based on the pay grade of the person upon whose death entitlement is predicated, at monthly rates set forth in the following table:

Pay grade	*Monthly rate*	*Pay grade*	*Monthly rate*
E-1	$445	W-4	$639
E-2	459	O-1	563
E-3	470	O-2	582
E-4	500	O-3	622
E-5	514	O-4	658
E-6	526	O-5	726
E-7	552	O-6	817
E-8	582	O-7	884
E-9	[1] 608	O-8	969
W-1	563	O-9	1,041
W-2	586	O-10	[2] 1,139
W-3	603		

Pay grade	*Monthly rate*	*Pay grade*	*Monthly rate*
E-1	*$461*	*W-4*	*$661*
E-2	*$475*	*O-1*	*$583*
E-3	*$486*	*O-2*	*$602*
E-4	*$518*	*O-3*	*$644*
E-5	*$532*	*O-4*	*$681*
E-6	*$544*	*O-5*	*$751*
E-7	*$571*	*O-6*	*$846*
E-8	*$602*	*O-7*	*$915*
E-9	[1] *$629*	*O-8*	*$1,003*
W-1	*$583*	*O-9*	*$1,077*
W-2	*$607*	*O-10*	[2]*$1,179*
W-3	*$624*		

[1] If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps[.] or master chief petty officer of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be [$655] *$677*.

[2] If the veteran served as Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force[.] or Commandant of the Marine Corps, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be [$1,222] *$1,264*.

(b) If there is a surviving spouse with one or more children below the age of eighteen of a deceased veteran, the dependency and indemnity compensation paid monthly to the surviving spouse shall be increased by **[**$51**]** *$53* for each such child.

(c) The monthly rate of dependency and indemnity compensation payable to a surviving spouse shall be increased by **[**$134**]** *$139* if the spouse is (1) a patient in a nursing home or (2) helpless or blind, or so nearly helpless or blind as to need or require the regular aid and attendance of another person.

(d) The monthly rate of dependency and indemnity compensation payable to a surviving spouse shall be increased by **[**$66**]** *$68* if the surviving spouse is, by reason of disability, permanently housebound but does not qualify for the aid and attendance allowance under subsection (c) of this section. For the purposes of this subsection, the requirement of "permanently housebound" will be considered to have been met when the surviving spouse is substantially confined to such surviving spouse's home (ward or clinical areas, if institutionalized) or immediate premises by reason of a disability or disabilities which it is reasonably certain will remain throughout such surviving spouse's lifetime.

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§ 413. Dependency and indemnity compensation to children

(a) Whenever there is no surviving spouse of a deceased veteran entitled to dependency and indemnity compensation, dependency and indemnity compensation shall be paid in equal shares to the children of the deceased veteran at the following monthly rates:

(1) one child **[**$225**]** *$233;*
(2) two children **[**$323**]** *$334;*
(3) three children **[**$417**]** *$432;* and
(4) more than three children **[**$417**]** *$432*, plus **[**$84**]** *$87* for each child in excess of three.

(b) If dependency and indemnity compensation has been awarded under this section to a veteran's child or children and the entitlement to dependency and indemnity compensation under this section of an additional child of that veteran who is over the age of eighteen years and who had previously been entitled to dependency and indemnity compensation under this section before becoming eighteen years of age is later reestablished effective retroactively upon determination that such child is pursuing a course of instruction at an approved educational institution, the amount payable retroactively to the additional child is the amount equal to the difference between the total of the increased award payable under this section to the children of the deceased veteran for the retroactive period and the prior total award for such purpose for that period.

§ 414. Supplemental dependency and indemnity compensation to children

(a) In the case of a child entitled to dependency and indemnity compensation who has attained the age of eighteen and who, while under such age, became permanently incapable of self-support, the dependency and indemnity compensation paid monthly to such child shall be increased by **[**$134**]** *$143.*

(b) If dependency and indemnity compensation is payable monthly to a person as a "surviving spouse" and there is a child (of such person's deceased spouse) who has attained the age of eighteen and who, while under such age, became permanently incapable of self-support, dependency and indemnity compensation shall be paid monthly to each such child, concurrently with the payment of dependency and indemnity compensation to the surviving spouse, in the amount of **[**$225**]** *$233.*

(c) If dependency and indemnity compensation is payable monthly to a person as a "surviving spouse" and there is a child (of such person's deceased spouse) who has attained the age of eighteen and who, while under the age of twenty-three, is pursuing a course of instruction at an educational institution approved under section 104 of this title, dependency and indemnity compensation shall be paid monthly to each such child, concurrently with the payment of dependency and indemnity compensation to the surviving spouse, in the amount of **[**$114**]** *$118.*

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CHAPTER 24—NATIONAL CEMETERIES AND MEMORIALS

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§ 1008. Aid to States for establishment, expansion, and improvement of veterans' cemeteries

(a)(1) Subject to subsection (b) of this section, the Administrator may make grants to any State to assist such State in establishing, expanding, or improving veterans' cemeteries owned by such State. Any such grant may be made only upon submission of an application to the Administrator in such form and manner, and containing such information, as the Administrator may require.

(2) There is authorized to be appropriated $5,000,000 for fiscal year 1980 and for each of the four succeeding fiscal years for the purpose of making grants under paragraph (1) of this subsection. *There is also authorized to be appropriated such sums as may be necessary for fiscal year 1985 and for each of the four succeeding fiscal years for the purpose of making such grants.*

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PART III—READJUSTMENT AND RELATED BENEFITS

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CHAPTER 32—POST-VIETNAM ERA VETERANS' EDUCATIONAL ASSISTANCE

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Subchapter I—Purpose; Definitions

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§ 1602. Definitions

For the purposes of this chapter—

(1)(A) The term "eligible veteran" means any veteran who is not eligible for educational assistance under chapter 34 of this title and who (i) entered military service on or after January 1, 1977, served on active duty for a period of more than 180 days commencing on or after such date, and was discharged or released therefrom under conditions other than dishonorable, or (ii) entered military service on or after January 1, 1977, and was discharged or released from active duty after such date for a service-connected disability. *Notwithstanding the provision of the preceding sentence making a veteran who is eligible for assistance under chapter 34 of this title ineligible for the educational benefits program provided by this chapter, a veteran who is eligible for assistance under such chapter 34 solely by virtue of the provisions of section 1652(a)(3) of this title may elect to receive benefits under this chapter in lieu of assistance under such chapter 34.*

* * * * * * *

CHAPTER 34—VETERANS' EDUCATIONAL ASSISTANCE

* * * * * * *

§ 1662. Time limitations for completing a program of education

DELIMITING PERIOD FOR COMPLETION

(a)(1) * * *

* * * * * * *

SAVINGS CLAUSE

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[(e) No educational assistance shall be afforded any eligible veteran under this chapter or chapter 36 of this title after December 31, 1989.]

(e) The Secretary of Defense shall reimburse the Administrator for all amounts of educational or training assistance allowances paid by the Administrator under this chapter or chapter 36 of this title after December 31, 1989.

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CHAPTER 35—SURVIVORS' AND DEPENDENTS' EDUCATIONAL ASSISTANCE

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Subchapter IV—Payments to Eligible Persons

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§ 1733. Special assistance for the educationally disadvantaged

(a) Any eligible spouse or surviving spouse shall, without charge to any entitlement such spouse may have under section 1711 of this title, be entitled to the benefits provided an eligible veteran under section 1691 (if pursued in a State) of this title [and be paid an educational assistance allowance under the provisions of section 1732(a) of this title].

(b) Any eligible person shall, without charge to any entitlement such person may have under section 1711 of this title, be entitled to the benefits provided an eligible veteran under section 1692 of this title.

* * * * * * *

CHAPTER 36—ADMINISTRATION OF EDUCATIONAL BENEFITS

* * * * * * *

Subchapter II—Miscellaneous Provisions

§ 1781. Limitations on educational assistance

(a) No educational assistance allowance granted under chapter 34, 35, or 36, or subsistence allowance granted under chapter 31, of this title shall be paid to any eligible person (1) who is on active duty and is pursuing a course of education which is being paid for by the Armed Forces (or by the Department of Health and Human Services in the case of the Public Health Service); or (2) who is attending a course of education or training paid for under chapter 41 of title 5 and whose full salary is being paid to such person while so training.

(b) No person may receive benefits concurrently under two or more of the provisions of law listed below, for the pursuit of the same program of education—

(1) chapters 31, 32, 34, 35, and 36 of this title;

(2) section 901 of the Department of Defense Authorization Act, 1981 (Public Law 96-342, 10 U.S.C. § 2141);

(3) section 903 of the Department of Defense Authorization Act, 1981 (Public Law 96-342, 10 U.S.C. § 2141 note);

(4) the Hostage Relief Act of 1980 (Public Law 96-449, 5 U.S.C. § 5561 note).

* * * * * * *

FALSE OR MISLEADING STATEMENTS

* * * * * * *

§ 1795. Limitation on period of assistance under two or more programs.

(a) The aggregate period for which any person may receive assistance two or more of the [laws] *provisions of law* listed below—

(1) parts VII or VIII, Veterans Regulation numbered 1(a), as amended;

(2) title II of the Veterans' Readjustment Assistance Act of 1952;

(3) the War Orphans' Educational Assistance Act of 1956;

(4) chapters 32, 34, 35, and 36 of this title, and the former chapter 33;

(5) section 901 of the Department of Defense Authorization Act, 1981 (Public Law 96–342, 10 U.S.C. 2141);

(6) section 903 of the Department of Defense Authorization Act, 1981 (Public Law 96–342, 10 U.S.C. 2141 note);

(7) the Hostage Relief Act of 1980 (Public Law 96–449, 5 U.S.C. 5561 note);

may not exceed forty-eight months (or the part-time equivalent thereof),

(b) No person may receive assistance under chapter 31 of this title in combination with assistance under any of the provisions of law cited in clauses (1), (2), (3), [and (4)] *(4), (5), (6), and (7)* of this section in excess of forty-eight months (or the part-time equivalent thereof) unless the Administrator determines that additional months of benefits under chapter 31 of this title are necessary to accomplish the purposes of a rehabilitation program (as defined in section 1501(5) of this title) in the individual case.

* * * * * * *

CHAPTER 37—HOUSING AND SMALL BUSINESS LOANS

* * * * * * *

Subchapter I—General

* * * * * * *

§ 1802. Basic entitlement

(a) * * *

* * * * * * *

(b) In computing the aggregate amount of guaranty or insurance housing loan entitlement available to a veteran under this chapter, the Adminstrator may exclude the amount of guaranty or insurance housing loan entitlement used for any guaranteed, insured, or direct loan, if—

(1)(A) the property which secured the loan has been disposed of by the veteran or has been destroyed by fire or other natural hazard; and

(B) the loan has been repaid in full, or the Administrator has been released from liability as to the loan, or if the Administrator has suffered a loss on such loan, the loss has been paid in full; or

(2) [an immediate] *a* veteran-transferee has agreed to assume the outstanding balance on the loan and consented to the use of the veteran-transferee's entitlement, to the extent that the entitlement of the veteran-transferor had been used originally, in place of the veteran-transferor's for the guaranteed, insured, or direct loan, and the veteran-transferee otherwise meets the requirements of this chapter.

The Administrator may, in any case involving circumstances the Administrator deems appropriate, waive one or more of the conditions prescribed in clause (1) of the preceding sentence.

* * * * * * *

§ 1803. Basic provisions relating to loan guaranty

(a)(1) * * *

* * * * * * *

(c)(1) * * *

* * * * * * *

(3) This section shall not be construed to prohibit a veteran from paying to a lender any reasonable discount required by such, lender, when the proceeds from the loan are to be used—

(A) to refinance indebtedness pursuant to clause (5) [or (8)] *(8) or (9)(B)(i)* of section 1810(a) of this title or section 1819(a)(1)(F) of this title;

(B) to repair, alter, or improve a farm residence or other dwelling pursuant to clauses (4) and (7) of section 1810(a) of this title;

(C) to construct a dwelling or farm residence on land already owned or to be acquired by the veteran except where the land is directly or indirectly acquired from a builder or developer who has contracted to construct such dwelling for the veteran;

(D) to purchase a dwelling from a class of sellers which the Administrator determines are legally precluded under all circumstances from paying such a discount if the best interest of the veteran would be so served; or

(E) to refinance indebtedness and purchase a manufactured-home lot pursuant to section *1810(a)(9)(B)(ii) or* 1819(a)(1)(G) of this title, but only with respect to that portion of the loan used to refinance such indebtedness.

* * * * * * *

Subchapter II—Loans

§ 1810. Purchase or construction of homes

(a) Any loan to a veteran, if made pursuant to the provisions of this chapter, is automatically guaranteed if such loan is for one or more of the following purposes:

(1) To purchase or construct a dwelling to be owned and occupied by the veteran as a home.

(2) To purchase a farm on which there is a farm residence to be owned and occupied by the veteran as the veteran's home.

(3) To construct on land owned by the veteran a farm residence to be occupied by the veteran as the veteran's home.

(4) To repair, alter, or improve a farm residence or other dwelling owned by the veteran and occupied by the veteran as the veteran's home.

(5) To refinance existing mortgage loans or other liens which are secured of record on a dwelling or farm residence owned and occupied by the veteran as the veteran's home.

(6) To purchase a one-family residential unit in a condominium housing development or project, if such development or project is approved by the Administrator under criteria which the Administrator shall prescribe in regulations.

(7) To improve a dwelling or farm residence owned by the veteran and occupied by the veteran as the veteran's home through the installation of a solar heating system, a solar heating and cooling system, or a combined solar heating and cooling system or through the application of a residential energy conservation measure.

(8) To refinance in accordance with subsection (e) of this section and existing loan guaranteed, insured, or made under this chapter.

(9) Subject to subsection (f) of this section—

(A)(i) To purchase a manufactured home to be permanently affixed on a lot that is owned by the veteran.

(ii) To purchase a manufactured home and a lot on which the home will be permanently affixed.

(B)(i) To refinance, in accordance with the terms and conditions applicable under the provisions of subsection (e) of this section (other than paragraph (1)(E) of such subsection) to the guaranty of a loan for the purpose specified in clause (8) of this subsection, an existing loan guaranteed, insured, or made under this chapter that is secured by a manufactured home permanently affixed on a lot that is owned by the veteran.

(ii) To refinance, in accordance with section 1819(a)(5) of this title, an existing loan that was made for the purchase of, and that is secured by, a manufactured home that is permanently affixed to a lot and to purchase the lot on which the manufactured home is affixed.

If there is an indebtedness which is secured by a lien against land owned by the veteran, the proceeds of a loan guaranteed under this section or made under section 1811 of this title for construction of a dwelling or farm residence on such land may be used also to liquidate such lien, but only if the reasonable value of the land is equal to or greater than the amount of the lien.

* * * * * * *

(f)(1) For a loan to be guaranteed for the purpose specified in clause (A)(ii) or (B)(ii) of subsection (a)(9) of this section, the purchase of (or the refinancing of a loan secured by) the manufactured home and the lot for that home shall be considered as one loan and

must comply with such criteria as may be prescribed by the Administrator in regulations.

(2) A loan may not be guaranteed for the purposes of subsection (a)(9) of this section unless the manufactured home purchased, upon being permanently affixed to the lot, is considered to be real property under the laws of the State where the lot is located.

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§ 1819. Loans to purchase manufactured homes and lots

(a)(1) * * *

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(5)(A) For a loan to be guaranteed for the purpose specified in paragraph (2)(G) of this subsection *or section 1810(a)(9)(B)(ii) of this title*—

(i) the loan must be secured by the same manufactured home as was the loan being refinanced and such manufactured home must be owned and occupied by the veteran as such veteran's home; and

(ii) the amount of the loan may not exceed an amount equal to the sum of—

(I) the purchase price of the lot,

(II) the amount (if any) determined by the Administrator to be appropriate under paragraph (2) of this subsection to cover the cost of necessary preparation of such lot,

(III) the balance of the loan being refinanced, and

(IV) such closing costs (including any discount permitted pursuant to section 1803(c)(3)(E) of this title) as may be authorized by the Administrator, under regulations which the Administrator shall prescribe, to be included in such loan.

(B) When a loan is made to a veteran for the purpose specified in paragraph (1)(G) of this subsection *or section 1810(a)(9)(ii) of this title*, and the loan being refinanced was guaranteed, insured, or made under this section, the portion of the loan made for the purpose of refinancing such loan may be guaranteed by the Veterans' Administration under this chapter without regard to the amount of outstanding guaranty entitlement available for use by such veteran, and the amount of such veteran's guaranty entitlement shall not be charged as a result of any guaranty provided for such portion of such loan. For the purposes of section 1802(b) of this title, such portion of such loan shall be deemed to have been obtained with the guaranty entitlement used to obtain the loan being refinanced.

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CHAPTER 42—EMPLOYMENT AND TRAINING OF DISABLED AND VIETNAM ERA VETERANS

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§ 2011. Definitions

As used in this chapter—

[(1) The term "special disabled veteran" means (A) a veteran who is entitled to compensation (or who but for the receipt of military retired pay would be entitled to compensation) under laws administered by the Veterans' Administration for a disability rated at 30 percent or more, or (B) a person who was discharged or released from active duty because of service-connected disability.]

(1) The term "special disabled veteran" means—

(A) a veteran who is entitled to compensation (or who but for the receipt of military retired pay would be entitled to compensation) under laws administered by the Veterans' Administration for a disability rated at (i) 30 percent or more, or (ii) 10 or 20 percent if such veteran has been determined, under section 1506 of this title, to have a serious employment handicap, or

(B) a person who was discharged or released from active duty because of service-connected disability.

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PART IV—GENERAL ADMINISTRATIVE PROVISIONS

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CHAPTER 51—APPLICATIONS, EFFECTIVE DATES, AND PAYMENTS

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Subchapter II—Effective Dates

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§ 3011. Commencement of period of payment

(a) * * *

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(c)*(1)* This section shall apply to payments made pursuant to section 3110 of this title only if the monthly amount of dependency and indemnity compensation or pension payable to the surviving spouse is greater than the amount of compensation or pension the veteran would have received, but for such veteran's death, for the month in which such veteran's death occurred.

(2) This section shall not apply to the payment of a temporary increase in compensation for treatment or observation during a course of hospitalization or for convalescence.

(d) For the purposes of this section, the term "award or increased award" means—

(1) an original or reopened award; or

(2) an award that is increased because of an added dependent, increase in disability or disability rating, or reduction in income.

§ 3012. Effective dates of reductions and discontinuances

(a) * * *

* * * * * * *

(b) The effective date of a reduction or discontinuance of compensation, dependency and indemnity compensation, or pension—

(1) by reason of marriage or remarriage, or death of a payee shall be the last day of the month before such marriage, remarriage, or death occurs;

(2) by reason of marriage, annulment, divorce, or death of a dependent of a payee shall be the last day of the month in which such marriage, annulment, divorce, or death occurs;

(3) by reason of receipt of active service pay or retirement pay shall be the day before the date such pay began;

(4) by reason of—

(A) change in income shall (except as provided in section 3112 of this title) be the last day of the month in which the change occurred; and

(B) change in corpus of estate shall be the last day of the calendar year in which the change occurred;

(5) by reason of a change in disability or employability of a veteran in receipt of pension shall be the last day of the month in which discontinuance of the award is approved;

(6) by reason of change in law or administrative issue, change in interpretation of a law or administrative issue, or, for compensation purposes, a change in service-connected or employability status or change in physical condition shall be, *except as provided in subsection (c) of this section,* the last day of the month following sixty days from the date of notice to the payee (at [his] *such payee's* last address of record) of the reduction or discontinuance;

(7) by reason of the discontinuance of school attendance of a payee or a dependent of a payee shall be the last day of the month in which such discontinuance occurred;

(8) by reason of termination of a temporary increase in compensation for [hospitalization or] treatment *or observation during a course of hospitalization or for convalescence,* shall be the [last] day [of the month in] *on* which the [hospital discharge or termination of treatment occurred, whichever is earlier] *treatment, observation or convalescence terminated*;

(9) by reason of an erroneous award based on an act of commission or omission by the beneficiary, or with the beneficiary's knowledge, shall be the effective date of the award; and

(10) by reason of an erroneous award based solely on administrative error or error in judgment shall be the date of last payment.

(c) The effective date of a reduction in or discontinuance of compensation by reason of a change in service-connected or employability status or change in physical condition in the case of a veteran who files a request pursuant to subsection (a) of section 3117 of this title shall be the earliest of—

(1) the date on which such veteran withdraws the notice of disagreement filed in accordance with subsection (a)(3) of such section;

(2) the date on which such veteran files a statement pursuant to subsection (b) of such section;

(3) the date on which such case is closed pursuant to the sixth sentence of section 4005(d)(3) of this title; or

(4) the date on which the Board of Veterans' Appeals makes a final determination upholding the determination referred to in subsection (a)(1) of section 3117 of this title to reduce or discontinue such veteran's compensation,

except that such effective date shall in no event be earlier than specified in subsection (b)(6) of this section.

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CHAPTER 53—SPECIAL PROVISIONS RELATING TO BENEFITS

Sec.
3101. Nonassignability and exempt status of benefits.
3102. Waiver of recovery of claims by the United States.
3103. Certain bars to benefits.
3103A. Minimum active-duty service requirement.
3104. Prohibition against duplication of benefits.
3105. Waiver of retired pay.
3106. Renouncement of right to benefits.
3107. Apportionment of benefits.
3108. Withholding benefits of persons in territory of the enemy.
3109. Payment of certain withheld benefits.
3110. Payment of benefits for month of death.
3111. Prohibition of certain benefit payments.
3112. Annual adjustment of certain benefit rates.
3113. Limitation on payment of compensation and dependency and indemnity compensation to persons incarcerated for conviction of a felony.
3114. Indebtedness offsets.
3115. Interest and administrative cost charges on delinquent payments of certain amounts due the United States.
3116. Authority to sue to collect certain debts.
3117. Continuation of compensation pending review and appeal.

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§ 3116. Authority to sue to collect certain debts

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§ 3117. Continuation of compensation pending review and appeal

(a) Any veteran—

(1) who receives from the Veterans' Administration a notice of a determination to reduce or discontinue such veteran's compensation by reason of a change in service-connected or employability status or change in physical condition;

(2) who was receiving compensation for a disability that was continuously rated totally disabling for a period of ten or more years ending on the date such determination was made, and

(3) who, not later than thirty days after the date on which the notice of such determination was sent to such veteran (at such veteran's last address of record), files a notice of disagreement with such determination pursuant to section 4005 of this title,

may file with such notice of disagreement a request that such compensation not be reduced or discontinued pending review by the ac-

tivity which entered such determination and pending the final determination of the Board of Veterans' Appeals on any formal appeal with respect to such determination that may thereafter be timely filed under section 4005(d)(3) or 4005A(b) of this title.

(b) Any veteran who has filed a request under subsection (a) of this section may, at any time, file with the Veterans' Administration a written statement withdrawing such request.

(c) A reduction or discontinuance of compensation with respect to which a request is filed pursuant to subsection (a) of this section shall not take effect before the date determined under section 3012(c) of this title.

(d) If a reduction or discontinuance of compensation payable to a veteran takes effect as provided in subsection (c) of section 3012 of this title, such veteran shall be indebted to the United States in an amount equal to the excess of the total amount of compensation paid to such veteran over the total amount of compensation that would have been paid to such veteran if the reduction or discontinuance of such compensation had taken effect as provided in subsection (b)(6) of such section without regard to subsection (c) of such section.

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CHAPTER 55—MINORS, INCOMPETENTS, AND OTHER WARDS

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Sec.
3201. Commitment actions.
3202. Payments to and supervision of [guardians] *fiduciaries.*
3203. Hospitalized veterans and estates of incompetent institutionalized veterans.
3204. Administration of trust funds.

§ 3202. Payments to and supervision of [guardians] *fiduciaries*

(a)*(1)* Where it appears to the Administrator that the interest of the beneficiary would be served thereby, payment of benefits under any law administered by the Veterans' Administration may be made directly to the beneficiary or to a relative or some other person for the use and benefit of the beneficiary, regardless of any legal disability on the part of the beneficiary. Where, in the opinion of the Administrator, any fiduciary receiving funds on behalf of a Veterans' Administration beneficiary is acting in such a number of cases as to make it impracticable to conserve properly the estates or to supervise the persons of the beneficiaries, the Administrator may refuse to make future payments in such cases as he may deem proper.

(2) In a case in which the Administrator determines that a commission is necessary in order to obtain the services of a fiduciary in the best interests of the beneficiary, the Administrator may authorize a fiduciary appointed by the Veterans' Administration to deduct from the beneficiary's estate a reasonable commission for fiduciary services rendered, but in no event shall (A) the commission for any year exceed four percent of the monetary benefits under laws administered by the Veterans' Administration paid on behalf of the beneficiary to the fiduciary during such year, or (B) any commission be

authorized in the case of a fiduciary who receives any other form of remuneration or payment in connection with rendering fiduciary services on behalf of the beneficiary.

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PART V—BOARDS AND DEPARTMENTS

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CHAPTER 73—DEPARTMENT OF MEDICINE AND SURGERY

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Subchapter I—Organization; General

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§ 4112. Special medical advisory group and other advisory bodies

(a) The Administrator shall establish a special medical advisory group composed of members of the medical, dental, podiatric, optometric, and allied scientific professions, *other individuals considered by the Chief Medical Director to have experience pertinent to the missions of the Department of Medicine and Surgery,* and a disabled veteran, nominated by the Chief Medical Director, whose duties shall be to advise the Administrator, through the Chief Medical Director, and the Chief Medical Director direct, relative to the care and treatment of disabled veterans, and other matters pertinent to the Department of Medicine and Surgery. The special medical advisory group shall meet on a regular basis as prescribed by the Administrator and, not later than February 1 of each year, shall submit to the Administrator and the Congress a report on its activities during the preceding fiscal year. The number, terms of service, pay, and allowances to members of such advisory group shall be in accord with existing law and regulations.

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